IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2350 OF 2018

Sandhya Kailas Sarjine … Applicant
Vs.
State of Maharashtra … Respondent

WITH
CRIMINAL APPLICATION NO. 1456 OF 2018
IN
CRIMINAL BAIL APPLICATION NO. 2350 OF 2018

Rajendra Mahadeo Shelar … Intervenor

In the matter between

Sandhya Kailas Sarjine … Applicant
Vs.
State of Maharashtra … Respondent

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Mr. Murtuza Nazmi I/by Mr. Rameshkumar Singh for applicant.
Ms. A.A. Takalkar, APP for the Respondent-State.
Mrs. Anushka A. Shreshtha for the intervenor.
Mr. Jagdale, SPI, Memane, PSI, Ghatkopar Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th DECEMBER, 2018.

P.C.

1. This is an application for bail under Section 438 of Code of Criminal Procedure in connection with CR No. I-89 of 2016 registered with Ghatkopar Police Station. The First Information Report was lodged on 20th February, 2016 for the offences

punishable under Sections 420 read with Section 34 of Indian Penal Code. The applicant was arrested on 29th May, 2018.

2. The prosecution case is that the complainant was in search for a house to be purchased on ownership basis and hence he had approached to Estate Agent who informed him that BMC room is available for sale. After having seen the said room, the complainant decided to purchase the same. The Estate Agent introduced the complainant to a local builder to the applicant. It is further alleged that the complainant was introduced to the husband of the applicant. The complainant visited the office of accused where the applicant and her husband were present. It is alleged that requisite documents were executed and the amount was parted to the accused. Said transaction was executed in the office of the accused. The complainant parted with the amount. However, the premises was not given to the complainant. It is alleged that several such persons were induced to part with the amount towards purchase of premise and inspite of collecting huge amount, the promises were not fulfilled. It is further alleged that the amount which was collected in cheques was deposited into the account of the applicant which was misappropriated by the accused. Although, FIR was lodged on 20th February, 2016. the

applicant and her husband were arrested after about two and half years. The applicant was arrested on 29th May, 2018 and on completing investigation, chargesheet has been filed.

3. Learned counsel for the applicant submitted that the primary role is attributed to the husband of the applicant. The agreement were executed towards the said transaction relating to the premises with the applicant's husband to the victims. The applicant did not make any act inducing the victims to deposit money. The statement of the witnesses itself indicate that the purchaser / victims had handed over the cheque to the accused No.1 who insisted that the same be issued in the name of the applicant. It is submitted that except the fact that amount was credited to the account of the applicant, she has not played any other role in the crime. Applicant is a lady and further detention of the applicant is not necessary. It is further submitted that she had not absconded and was available at her residence at Pune. The son of the applicant is studying in the school in the said area. It is submitted that amount was also handed over to the other persons but they are not impleaded as accused in this case.

4. Learned APP submitted that the alleged amount was collected by the accused. The amount given by way of cheque to

the tune of Rs.78 Lakhs was deposited in the account of the applicant. It is submitted that cash amount was collected by the applicant. The circumstance shows that applicant and her husband were jointly involved in the crime and hence bail may not be granted to the applicant. It is also submitted that applicant was absconding since the date of registration of FIR and both the accused could be arrested recently. Learned advocate for the intervenor reiterated the submissions advanced by the learned APP. In addition to that it is submitted that applicant was present in the office when payment was made to the complainant. She has collected the amount and participated in the crime. The Sessions Court has rejected the application for bail. Considering the nature of evidence collected against the applicant. It is therefore prayed that the application for bail may be rejected.

5. I have perused the documents on record. The First Information Report was lodged on 20th February, 2016. The FIR itself indicates that the applicant was present in the office at the time of transaction. The amount was parted by the complainant. However, the FIR does not indicate that the applicant has made any inducement or false representation to the victims. The statement of the witnesses also indicate that accused No.1 has

insisted that the cheque be issued in the name of his wife. It is pertinent to note that the agreements were executed between the parties which were signed by the other accused and not by the applicant. Witnesses has also referred to the fact that cash amount was handed over to the applicant. There are no receipts and proof for making payment in cash and in any case the cash was handed over to accused/applicant subsequently. Apart from the aforesaid evidence, there is no material on record to show that the applicant was inducing the victims for depositing the amount on making false representations. The husband of the applicant is also arrested and he is in custody. Applicant is in custody from the date of arrest. There is nothing on record to indicate that any proclamation order was issued against the applicant. In view of above, further detention of the applicant is not necessary. Bail can be granted to the applicant on certain terms and conditions. Hence, I pass the following order.

ORDER

i. Criminal Bail Application No. 2350 of 2018.

ii. Applicant is directed to be released on bail in connection with C.R. No. 89 of 2016 registered with Ghatkopar Police Station on furnishing P.R. Bond in a sum of Rs.20,000/- with one or more sureties in the like amount;

iii. Applicant shall report the concerned police station once in a month on First Saturday of the every month between 11 a.m. to 1 p.m till further order;

iv. Applicant shall furnish her permanent address to the Investigating Officer after she is released on bail;

v. Applicant shall not tamper with the evidence;

vi. Criminal Bail Application No. 2350 of 2018 and Criminal Application No.1456 of 2018 stand disposed off.

(PRAKASH D. NAIK, J.)