

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1991 OF 2018

Smt. Nikaben Shah @ Nikaben Sanghvi ... Applicant
Vs.
State of Maharashtra ... Respondent

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Mr. Akhilesh Choubey a/w Mr. Virendra Pandey for the applicant.
Mr. A.R. Kapadnis, APP for the Respondent-State.
Mr. Jahangir Mulani, API, Kasturba Marg, Borivali is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 27th SEPTEMBER, 2018.

P.C.

1. Applicant is seeking anticipatory bail in connection with C.R. No. 555 of 2017 registered with Kasturba Marg Police Station for the offence punishable under Section 420 read with Section 34 of Indian Penal Code.

2. The prosecution case is that FIR was lodged on 24th December, 2017 by Smt. Seema Ratilal Balsara. It is alleged that sister of the complainant is residing at Baroda. She has two children. Nephew of the complainant has passed out 12th examination in the year 2015 and he wanted to become doctor. They were in search of good college for medical course. The complainant and her relatives came to know that D.Y. Patil College

is a reputed college in Pune. Hence, they want to take admission for the nephew of the complainant in the said college. They learnt that one Irfan Jattu would help them in taking admission to the said college. In pursuant to that they also came to know that applicant knows Irfan Jattu and hence they contacted the applicant. The applicant stated that she is acquainted with Irfan Jattu. She also stated that Irfan Jattu would manage to get admission in the said college. Through the applicant, the complainant contacted Irfan and told him about their intention to get admission in D.Y. Patil College. Irfan Jattu assured the complainant that they will manage the admission in the said college and amount of Rs.30,00,000/- will be required for said work. Subsequently, the complainant and her sister gave an amount of Rs.28,75,000/- to Irfan Jattu in the month of August, 2016 in the presence of applicant. Both the accused had guaranteed that the admission will be done in the said college. The promises were not fulfilled and the amount was also not returned. FIR was lodged vide C.R. No. 555 of 2017 against the accused. Co accused Irfan Jattu was arrested by police. He preferred an application for bail before the Sessions Court, which was allowed by order dated 2nd April, 2018. Applicant preferred an application

for anticipatory bail before the Sessions Court, which has been rejected on 17th September, 2018.

4. On perusal of the First Information Report, it is clear that cash amount of Rs.28,75,000/- was given to Irfan Jattu. Although, FIR indicates that the said amount was given in the presence of the applicant. As per the order dated 2nd April, 2018 passed by the Sessions Court, it is apparent that an amount of Rs.10,00,000/- has been refunded by the co-accused Irfan Jattu to the complainant and assurance was given that he would make endeavour to make entire balance amount to the complainant. The Sessions Court granted bail to the co-accused. In the order dated 2nd April, 2018, the court has directed co-accused to make endeavour to pay amount of Rs. 18,75,000/-. The case of the prosecution is that during the course of interrogation the co-accused has stated that he has given an amount of Rs.2,75,000/- as commission to the applicant. Applicant was granted interim protection during the pendency of his application before the Sessions Court. Applicant was directed to attend the concerned police station. She has attended the concerned police station and her statement has been recorded.

5. In the light of aforesaid facts, the custodial interrogation of

the applicant is not necessary.

ORDER

- i) Anticipatory Bail Application is allowed.
- ii) In the event of arrest of the applicant in connection with CR No. 555 of 2017 registered with Kasturba Marg Police Station, the applicant be released on bail on furnishing PR bond of Rs.25,000/- (Rs. Twenty Five Thousand) with one or more sureties in the like amount;
- iii) The applicant shall report the Investigating Officer of the concerned police station as and when called for till filing of the chargesheet;
- iv) Application stands disposed off.

(PRAKASH D. NAIK, J.)

Sachidanand
Kuttan Nair

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by Sachidanand
Kuttan Nair
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2018.09.29
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