

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

ANTICIPATORY BAIL APPLICATION NO. 2082 OF 2018

1. Subhash Popatlal Lunkad
2. Sachin Subhash Lunkad
3. Sandip Subhash Lunkad

....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Chetan Nagare for the applicants.

Mr. S.S. Pednekar, APP for the State.

Mr. Vishal K. Palare, Police Constable, Shirur Police station, Pune
Gramin, present.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED: 09th OCTOBER, 2018.**

P.C.:

. This is an application for anticipatory bail filed under Section 438 of Criminal Procedure Code by the aforesaid applicants, who apprehend their arrest in C.R.No.662/2018, registered with Shirur Police Station, District Pune for offences punishable under sections 406, 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Chetan Nagare, learned counsel for the applicant. He submits that the material on record does not *prima facie* indicate that the applicants are involved in commission of the said crime. He submits that the main allegations are against Dilip Lunkad, the brother of the applicant no.1. He submits that the applicants were neither

parties to the agreement / MOU dated 20/10/2015 nor have they received any money from the first informant.

3. Mr. S.S. Pednekar, learned APP also concedes that the copy of the agreement / MOU has been seized from the notary and that the perusal of the same shows that the applicants herein were not parties to the said agreement.

4. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The aforesaid crime was registered pursuant to the first information report lodged by Surendra Motilal Lodha. A perusal of the said first information report prima facie reveals that the first informant was interested in purchasing a property. He claims that Dilip Lunkad and his son Atul and present applicants had shown to him a property under Gut No.635, 655, 662/1, 662/2, 662/3, 662/4 and had told him that the said property was joint family property and that they were interested in selling the same due to financial constraints. He claims that he was shown 7/12 extracts. However, he did not retain copies since he had good relations with Deepak Lunkad and his family members. He further states that subsequently he entered into an

agreement / MOU whereby he had agreed to purchase the property at the rate of Rs.9 lakhs per acre. He and his wife-Alka paid Rs.75 lakhs to Dilip Lunkad as earnest money. Subsequently, said Dilip Lunkad and his family members refused to execute the sale deed. Upon inquiry, he learnt that the Dilip Lunkad and his family members were not the owners of the said property. He, therefore, filed the first information report against Dilip Lunkad and his family members for committing the aforesaid offence.

6. A perusal of the MOU prima facie indicates that the same was executed by the first informant and Dilip Lunkad. These applicants are not parties / signatories to the said agreement / MOU. There is no prima facie material on record to show that these applicants had received the earnest amount of Rs. 75 lakhs which was paid by the first informant. The material on record prima facie reveals that the transaction was between the first informant and Dilip Lunkad. The allegations against these applicants are general in nature.

7. The nature of allegations as against these applicants do not justify custodial interrogation. The applicants are permanent residents of Pune and there are no chances of the applicants absconding and/or thwarting the course of justice. The applicants have no criminal

antecedents. Considering the above facts and circumstances, in my considered view, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the applicants in C.R.No.662/2018 registered with Shirur Police Station, District Pune, they shall be released on bail on furnishing bail bonds of Rs.25,000/- (Rupees Twenty Fifty Thousand) each with one or two solvent sureties in the like amount to the satisfaction of Investigation Officer.

(b) The applicants shall remain present before the Investigation Officer from 15/10/2018 for a period of three days between 11:00 a.m. to 02:00 p.m. and further as and when required by the Investigation Officer for the purpose of interrogation/investigation.

(c) The applicants shall not tamper with the evidence or interfere with the complainant and the other witnesses in any manner.

(d) The applicants shall furnish their permanent and temporary address, if any, and their contact details to the Investigation Officer.

(e) The applicants shall not change their residential address without prior intimation to the Investigation Officer.

(SMT. ANUJA PRABHUDESSAI, J.)