

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

ANTICIPATORY BAIL APPLICATION NO. 2529 OF 2018

Chandrika Vinod Savla ... Applicant

Vs.

The State of Maharashtra ... Respondent

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Mr. Arun Rajput a/w Ms. Priyanka Mali I/by Ms. Anjali Patil for the applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 12th DECEMBER, 2018.

P.C.

1. This is an application for anticipatory bail. The applicant is apprehending arrest in connection with CR No.232 of 2018 registered with Azad Maidan Police Station for offences punishable under Sections 465, 467, 468, 471, 120(B) of Indian Penal Code. FIR was lodged on 19th September, 2018.

2. The case of the prosecution is that the complainant is a partner of M/s Abhishek Enterprises. On 13th December, 1995 the agreement was executed for purchase of property bearing Survey No. 22, 22/1 to 22/19 of Malad (N) Taluka Borivali, at S.V. Road, Kandivali from the trust owner of Mathuradas Gordhandas Trust by M/s Abhishek Enterprises. There was dispute between trustees.

Another trust was constituted in the same name. The complainant came to know that trustees are likely to sell the same property to another party. The complainant filed the suit for specific performance in the High Court in 2002. In the suit bearing No. 1625 of 2002, interim order was passed on 26th August, 2005 wherein the Court Receiver was appointed and the complainant were directed to deposit the balance amount with the Court Receiver. It is alleged that in 2015, Trustee Jitendra Thakkar and others filed a petition in the High Court. In the said petition, agreement dated 29th July, 2009 was annexed wherein it was stated property was agreed to be sold to Vinod Mulji Savla, 2) Pritesh Mulji Savla 3) Chandrika Vinod Savla who were the partner of Mahaveer developers. The applicant allegedly is one of the partner of the said concern. In the said petition, the petitioners therein had relied upon the letter dated 15th February, 2015 which was purportedly issued by the Court Receiver in which it was stated that suit filed by Abhishek Enterprises has been dismissed by the High Court and the Trust can enter into the transaction relating to the said property. With a view to verify the genuinenesses of the said letter correspondence was exchanged with the office of the Court Receiver and the said office intimated

that no such letter was issued by the office of the Court Receiver. The said fact was brought to the notice of this Court in the Petition. By order dated 4th May, 2018, this Court directed that appropriate action be initiated in accordance with criminal law. In pursuant to that First Information Report was registered on 19th September, 2008.

3. Learned counsel for the applicant submitted that Mahavir developers were bonafide purchasers of the property. The applicant is house wife and is not actively participating in the day-to-day affairs of the said firm. Husband of the applicant is arrested and he is in custody. The letter was not fabricated by applicant. The applicant was granted interim protection during the pendency of hearing of application before the Sessions Court and she was directed to attend the police station. She has complied the said direction and have co-operated with the investigation. Her statement is also recorded during the course of interrogation by the police. It is further submitted that petition was filed by the trustees and not by the M/s Mahaveer developers. The custodial interrogation of the applicant is not necessary. It is further submitted that the trustees who had filed the petition and had allegedly relied upon the fabricated letter issued by the Court

Receiver were arrested and granted bail.

4. Learned APP submitted that the offence is of serious nature, documents viz letter issued by the Court Receiver was forged by the accused. Applicant is one of the partner of Mahaveer Company and they had no right to purchase the said property and were having knowledge about the falsity of the document. The applicant and the other trustees who were impleaded as accused had conspired to commit the offence. It is submitted that the co-accused has been granted bail after their arrest and applicant cannot claim parity. It is submitted that the magnitude of the offence is required to be taken into consideration as the letter purportedly issued by the Court Receiver has been forged. The applicant was the partner of the M/s Mahavir developers. Original of forged document is yet to be recovered. It is therefore submitted that the custodial interrogation of the applicant is necessary.

5. I have gone through the documents on record. The complainant had executed an agreement in respect to the property on 13th December, 1995. Apparently, the petition was filed by the trustees in which the document allegedly issued by Court Receiver was found to be annexed and used in the said proceedings. The applicant is one of the partner of Mahaveer developers who were

prospective purchaser of the said property. The husband of the applicant is arrested and he is in custody. The role attributed to the applicant and her husband appears to be identical. The applicant was granted interim protection during the pendency of application before the Sessions Court. She has attended the police station and her statement is recorded during the course of interrogation. The document was apparently part of the proceedings initiated by the trustees. It is contended by the prosecution that the original document is not recovered by the police. It is pertinent to note that husband of the applicant is already in custody. Trustees were arrested and subsequently they have been granted regular bail by the Sessions Court. In the circumstances, there is no need for the custodial interrogation of the applicant. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application is allowed;
- ii) In the event of arrest of applicant in connection with C.R. No.232 of 2018 registered with Azad Maidan Police Station, the applicant be released on bail on furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- iii) The applicant shall report the Investigating Officer of

concerned Police Station as and when called for till filing of the chargesheet;

iv) Anticipatory Bail Application stands disposed off.

(PRAKASH D. NAIK, J.)