

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

ANTICIPATORY BAIL APPLICATION NO. 263 OF 2019

Pinky Sunil Rathod	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

- Mr.Abhishek Yende for the Applicant.
- Mr.R.M. Pette, APP for the Respondent.
- Mr.S.V. Avhad, PSI, Mahatma Phule Chowk Police Station, Kalyan.

CORAM : PRAKASH D. NAIK, J.

DATE : 13th FEBRUARY, 2019.

P.C. :

1] This is second application for anticipatory bail in connection with C.R. No.I-97 of 2017 registered with Mahatma Phule Chowk Police Station, Kalyan, for the offence punishable under Sections 420, 406 read with 34 of the Indian Penal Code [for short, "IPC"] and Section 3, 4 and 5 of Maharashtra Ownership Flats. (Regulation of the promotion of construction, sale, management and transfer). Act, 1963.

2] The Applicant had earlier preferred an application for

anticipatory bail before this Court, which was numbered as A.B.A. No.1167 of 2017. The Applicant had preferred another anticipatory bail application number as A.B.A. No.1150 of 2017 before this Court in connection with CR No.I-473 of 2016 registered with Mahatma Phule Chowk Police Station. Both these applications were heard and on 6th July, 2017 at the request of the learned counsel for the Applicant, on instructions from the Applicant, the applications were allowed to be withdrawn and disposed of as withdrawn.

3] Thereafter, the Applicant had preferred an application for anticipatory bail before the Sessions Court in connection with CR No.I-473 of 2016 in which the Sessions Court was pleased to grant interim relief to the Applicant. Learned counsel for the Applicant submits that the said application which was numbered as 27 of 2018 was subsequently not pressed and thereafter, another application was preferred before the Sessions Court, which was numbered as A.B.A. No.93 of 2019 in which interim protection was granted and said application is pending before the Sessions Court. In the present application, it is stated that the Applicant has not filed any other application with regard to the subject matter of the present application. During the course of hearing, learned APP pointed out that the Applicant had indeed preferred A.B.A. No.1167 of 2017 before

this Court which was heard by this Court at length and the same was allowed to be withdrawn on the submissions being made by the learned counsel for the Applicant.

4] Thus the Applicant has suppressed the fact that the Applicant has preferred A.B.A. No.1167 of 2017 before this Court through another Advocate and the same was withdrawn. Learned counsel for the Applicant, however, submits that the application was withdrawn as other applications were pending before the Sessions Court. It is pertinent to note that after the withdrawal of the earlier application in connection with the FIR, which is subject matter of the present application, the Applicant has preferred this application before this Court on 28th January, 2019. The conduct of the Applicant, therefore, requires to be deprecated. There is clear suppression of the vital facts from the Court and the Applicant tried to mislead the Court. Apart from that, it is noted that there is evidence against the Applicant to show her involvement.

5] The First Investigating Report clearly depicts the role played by the Applicant and hence, no case for anticipatory bail is made out. It is pertinent to note that the FIR was registered in the present case on 31/03/2017, the Application was rejected by the

Sessions Court on 19/06/2017 and thereafter the application was withdrawn before this Court on 06/07/2017, the Applicant is without interim protection from the date of registration of the FIR and apparently not available for the purpose of investigation. In these circumstances, the Application stands rejected.

[PRAKASH D. NAIK, J.]