

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

ANTICIPATORY BAIL APPLICATION NO. 333 OF 2019

Sheetal Kishanchand Tejawani ... Applicant

Versus

The State of Maharashtra ... Respondent

Mr. Prashant R. Katneshwarkar h/f Sagar M. Kursija for Applicant.

Ms. S. S. Kaushik, APP for Respondent – State.

Mr. Nilesh Ojha a/w Mansi Jain, Shashikala Chauhan, Kartavya, Ashok for
Complainant – Intervener.

Mr. Appasaheb Waghmare, Senior Police Inspector, Shivaji Nagar Police
Station, Pune present in Court.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 7, 2019.

P.C. :

. In Crime No. 145 of 2018 for an offence punishable under
Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal
Code, the Applicant is seeking pre-arrest bail.

2. Heard Mr. Katneshwarkar, the learned Counsel for Applicant
and learned APP who is assisted by Mr. Ojha, the learned Counsel for
Complainant.

3. Prosecution case against the Applicant is, Applicant is wife of Adv. Sagar Suryawanshi who is co-accused in the crime in question. The said Adv. Suryawanshi and the present Applicant were in some business and professional relation with complainant Vinay Aranha. The present Applicant initiated Special Civil Suit No. 1598 of 2015 in the Court of Civil Judge Senior Division, Pune for specific performance of contract based on an Agreement. In the said suit co-accused Adv. Sagar Suryawanshi so as to create advantageous position for the Applicant, who is his wife has hired services of his own junior namely, Priyanka Shelar, notarized an Affidavit of complainant before Adv. Pansare with forged signature so as to cause undue benefit out of the said suit in favour of complainant.

4. Mr. Katneshwarkar, the learned Counsel for Applicant would urge that the Applicant - a lady is entitled for bail as in the complaint or otherwise there are no specific attribution as regards the satisfaction of ingredients of Sections 420, 465, 467 of the Indian Penal Code. According to him, the custodial interrogation of the Applicant who is a lady is not warranted as she is very much available for the investigation and if protected, she will co-operate with the investigation agency. He further

claimed that co-accused Adv. Priyanka Shelar and Adv. Pansare both were arrested and released on bail. That being so, the Applicant is entitled for protection.

5. The learned APP who is assisted by Mr. Ojha would urge that the custodial interrogation of the Applicant is required so as to find out the degree at the pace of involvement of the Applicant in the crime in question. It is also brought to the notice of this Court as regards the registration of Crime No. 235 of 2019 for an offence punishable under sections 406, 420, 34 of the Indian Penal Code in addition to another offence being Crime No. 48 of 2015 for an offence punishable under the same provisions.

6. The learned APP then would urge that the custodial interrogation of the Applicant is necessary so as to collect her handwriting samples and to understand the mode and manner in which the offence in question is committed. It is also claimed that the learned Sessions Judge has rejected the prayer for grant of pre-arrest bail with a reasoned order and in view of the law laid down by the Apex Court in the matter of **Ram**

Pratap Yadav V/s Mitra Sen Yadav and Another¹, particularly paragraph 8 which read thus :

“8. A perusal of the impugned order of the High Court does not show the abovesaid requirement having been satisfied. The High Court has not said a word as to why the reasons assigned by the Sessions Court for rejecting the prayer for bail need to be ignored or are not relevant or why the High Court was inclined to exercise its power favourably towards the accused applicant in spite of the availability of grounds to the contrary set out in the order of the Sessions Court. Independently of the order of rejection passed by the Sessions Court, the High Court may grant bail to an accused person, yet it would be sound exercise of discretionary jurisdiction of the High Court if the order of the High Court reflects that the High Court had in mind the reasons assigned by the Sessions Court for refusing bail. The impugned order of the High Court suffers from this infirmity.”

7. This Court should respect the said reasons while dealing with the prayer and if this Court intend to grant bail, the Court must record separate reasons in support thereof.

8. Having considered rival submissions what is noticed is, the complainant Vinay Arhana along with his father were taking advise from

¹ (2003) 1 Supreme Court Cases 15

co-accused Adv. Sagar Suryawanshi being a Lawyer since 2010. It is the case of the complainant that at times he had taken financial assistance from co-accused Adv. Sagar Suryawanshi and in 2015 there was a Facility Agreement entered into between the Applicant and the said Complainant in the matter of management of Education Institutions of complainant. Following position emerges from the rival submissions.

9. Initiation of suit for specific performance of contract being Special Civil Suit No.1598 of 2015 at the behest of the Applicant is based on an Agreement of Sale entered into between the Applicant and the Complainant in which it is claimed that co-accused Adv. Sagar Suryawanshi i.e. husband of the Applicant in connivance with his Junior and Notary has filed certain proceedings by forging signature of Complainant. The contents of FIR and other investigation papers does not speak of any specific role played by the Applicant in the present crime, particularly as regards forging of signature. The main role is attributed to co-accused Adv. Sagar Suryawanshi & Adv. Priyanka Shelar. Apart from above, the offence is based on the documents, viz – the Court proceedings and the Agreement of Sale. That being so, all the documentary evidence is

very much available with the investigating agency. So far as the specimen of the handwriting of the Applicant is concerned, the learned Counsel for Applicant volunteers that the Applicant shall tender the specimen of handwriting as and when directed by the Investigating Officer to that effect.

10. Apart from above, the fact that there are two more offences registered against the Applicants are concerned, so far as the earlier offence of 2015 is concerned, there is hardly any material on record to infer or to take the same to the prejudice of the Applicant, as the Applicant is already released on bail in the said case.

11. So far as the registration of second crime being Crime No. 235 of 2019 for the similar offence punishable under Sections 406, 420, 34 of the Indian Penal Code is concerned, same is at the behest of a Bank wherein the Applicant is co-borrower who has failed to repay the loan amount and the said issue will be looked into independent of the present crime. As such, registration of Crime No. 235 of 2019 will not come in the way of Applicant while dealing with the present Application, as the said offence can be investigated independent of the allegation in the present

case.

12. As far as the law laid down by the Apex Court in the matter of Ram Pratap Yadav (*cited supra*) is concerned, I have perused the order passed by the learned Additional Sessions Judge, Pune while rejecting the prayer for grant of bail moved by the present Applicant. The learned Sessions Judge was impressed by the fact that there is *prima facie* involvement of the Applicant along with co-accused in the crime in question without going into the material available on record, viz – the allegation, the role played by the Applicant.

13. This Court has independently dealt with the allegation against the Applicant in the complaint and other material available on record. That being so, the observation made by the Apex Court in paragraph No. 8, also permits this Court to grant bail provided satisfaction and the reasons in support thereof are recorded. As such, a case for grant of pre-arrest bail is made out. Hence, the following order.

ORDER

(A) In the event of arrest in Crime No. 145 of 2018 for an offence punishable under Sections 420, 465, 467, 468, 471 read with

Section 34 of the Indian Penal Code, the Applicant be released on executing PR Bond of Rs.15,000/- with one or more surety in the like amount.

- (B) The Applicant shall attend the Investigating Officer on 12th, 15th, 20th and 25th February 2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.
- (C) The Applicant shall co-operate with the Investigating Officer in the investigation of the present crime. If required, the Applicant shall also furnish the specimen of the handwriting.
- (D) The Applicant shall neither tamper the evidence of prosecution nor influence the prosecution witnesses.

14. Anticipatory Bail Application stands disposed of with above observations.

15. The observations made herein are of *prima facie* nature and shall not influence the trial and restricted to the extent of Applicant.

(NITIN W. SAMBRE, J.)