

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1441 OF 2019

Ravindra Jaynarayan Sharma] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Rajesh More, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

Mr. Kailas Dukare, PN 6695 attached to Bundgarden Police Station,
Pune City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 5th JULY, 2019.

P. C. :-

1. Leave to amend. Amendment to be carried out forthwith.
2. The applicant is seeking anticipatory bail in connection with C.R. No.46/2018 registered with Bundgarden Police Station, Pune City u/sec. 420, 466, 467, 468, 471 r/w 34 of I.P.C.
3. The FIR in this case is lodged by the first informant Atul Chopada on 16/02/2018. According to him, he is the owner of Flat

No.A-8 in Building No.S 8 at Paund Road, Kothrud, Pune admeasuring 900 sq. feet. The first informant had purchased that flat in the year 1991. After initially it was given on rent to M/s. Bricks Electronics Pvt. Ltd., thereafter since 01/03/2002, the flat was given to the present applicant on leave and licence basis. For that purpose, the first informant had accepted Rs.40,000/- as deposit. The applicant was not regular in making payment. According to the first informant, since 2008 to 2016 leave and licence agreements were registered after every 11 to 12 months. In between there was a case instituted against the first informant because the applicant had tampered with the electricity meter. Finally, since the applicant was not vacating the flat, the first informant was constrained to file proceedings before the competent authority under provisions of the Maharashtra Rent Control Act, 1999. In the said proceedings, the applicant produced the document purporting to be the receipt and writing executed between the parties on 20/12/1997. It was executed on a stamp paper. It is not a registered document. However, the applicant was relying on it before the competent authority. In the proceedings initiated by the first informant, it is the case of the first informant that the contents of the said document i.e. visar pavati are false. The first

informant was never paid Rs.3,40,000/- and the signature on the said document purported to be that of the first informant was a forged signature. Based on these allegations, the FIR was lodged.

4. Heard Mr. Rajesh More, Ld. Counsel for the Applicant and Ms.S.S. Kaushik, APP for the State/Respondent.

5. Ld. Counsel for the applicant submitted that the document in question is a genuine document. It was in existence since the year 1997. The first informant was fully aware about the existence of such document and just to dispute the applicant's rights before the competent authority, the present FIR is filed. He relied on the non cognizable case lodged by the applicant against the first informant on 28/11/2017 wherein there is some reference to the dispute regarding the possession of the flat. It is mentioned in the NC report that the first informant was threatening and pressurising the applicant. He also relied on the order dated 04/12/2017 passed by the competent authority in Application No.50/2016 initiated by the first informant. Vide said order the competent authority had granted leave to the applicant to file his written statement and to defend the proceedings.

6. As against this, Ld. APP submitted that the offence is clearly made out. It is the case of forgery and therefore custodial interrogation of the applicant is necessary.

7. Considering the submissions advanced by both the parties, it is the case of the applicant that such document was in existence since the year 1997. There was no reason as to why he should have entered into leave and licence agreement repeatedly for many years and that too through the registered documents registered with the Sub Registrar. The conduct of the applicant shows that he was not regularly making payments which he was required to pay under the leave and licence agreement. The first informant has naturally taken the legal steps by approaching competent authority for possession of his flat. Just because the applicant is granted leave to defend the proceeding that does not mean that the document executed between the parties was held to be a genuine document. Since the first informant is claiming that his signature on the document is forged, custodial interrogation of the applicant is necessary to verify the truth and to find out as to how that document came into existence. Hence, there is no merit in the application and I am not inclined to grant

anticipatory bail to the applicant. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)