

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

ANTICIPATORY BAIL APPLICATION NO.833 OF 2020

1. Dashrath Shivram Nitnavare
 2. Suresh Shivram Nitnavare
- Applicants

versus

State of Maharashtra

.... Respondent

.....

- Mr.R.B. Mokashi a/w Mr.Aditya R. Mokashi,a/w Mr.Fauzan Shaikh Advocate for Applicants
- Mr.Amit Palkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 08th DECEMBER, 2020

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.4 of 2020 registered with Worli Police Station, under sections 457, 465, 468, 471 r/w 34 of the Indian Penal Code.

2. The FIR is lodged on 10/01/2020 by one Ramesh Bhivji Jadhav. He was working with S.R.A. as Class I Officer. The subject matter of this FIR is the scheme of Slum Area Development at Worli, in respect of Maya Nagar – Achanak

Nagar Co-operative Housing Society Limited. The FIR is in respect of allotment of rooms and in particular, allotment of Room No.302. It was allotted to one Shantaram Laxman Darole (deceased). There were some complaints. Therefore the first informant enquired into it. He came to know that Shantaram Darole has died on 13/03/1998 and yet the application was made on 26/07/2016, with name of said Shantaram Darole on that application. The document shows thumb impression of Shantaram Darole, though he had died much earlier. By the said document his room No.302 was exchanged with Room No.1603 allotted to one Sarubai Ashtekar. Said Room No.1603 was transferred in the name of the Applicants' father Shivram Dagdu Nitnavare. The document bears thumb impression of Sarubai Ashtekar, who had also died, much prior to execution of this document. Said document bears signature of Applicants' father Shivram Nitnavare. Obviously, this document was a forged document.

3. Heard Mr.R.B. Mokashi learned counsel for the Applicant and Mr.Amit Palkar, learned APP for the State.

4. Learned counsel for the Applicants submitted that the same allegations were the subject matter of earlier FIR registered at the same police station vide C.R.No.290 of 2018 dated 02/11/2018 u/s 419, 465, 468, 471 r/w 34 of the IPC. Both the Applicants had got anticipatory bail in connection with that offence. According to learned counsel for the Applicants, the present FIR is a offshoot of the earlier FIR. He therefore submitted that once the Applicants were granted anticipatory bail by the Court of Sessions in the earlier FIR on the same set of allegations, there is no reason why they should not be granted similar protection in the present subsequent FIR, which covers the same allegations.

5. Learned APP opposed this application by submitting that the Applicant No.1 was one of the office bearers and without his connivance this offence could not have taken place. He submitted that on the earlier occasion the Applicants had got anticipatory bail on technical grounds. He submitted that the

Applicants have misused their powers and in particular Applicant No.1 being committee member, had taken possession of a room on a higher floor. He therefore submitted that the Applicants do not deserve protection of anticipatory bail order.

6. I have considered these submissions. As rightly pointed by the learned counsel for the Applicants, similar allegations were made in the earlier C.R.No.290 of 2018. The charge-sheet in the previous crime was already filed. The subject matter of the charge-sheet is also the same document, which bears thumb impression of Sarubai Ashtekar and Shantaram Darole, who were dead on the date of execution of that document. Though that document bears signature of the Applicants' father, the Applicants' signatures do not appear on that document. Both the Applicants were granted anticipatory bail on those allegations. The present FIR is practically repetition of major allegations from the earlier FIR. In any case, Applicants' father Shivram Nitnavare who was beneficiary of the alleged fraud, has also expired. The Applicants are claiming ownership of the rooms

through him. If they are not eligible to have possession of that room, the S.R.A. can always take steps in that behalf. As far as execution of that document is concerned, both the Applicants were not signatories of that document. Though the Applicant No.1 was an office bearer at that time, he was granted anticipatory bail on those very allegations. The said order of grant of anticipatory bail was passed on 14/11/2018 by the Additional Sessions Judge, Greater Mumbai in Anticipatory Bail Application No.1871 of 2018. For more than two years, that order is not challenged.

7. Therefore on the same set of allegations, the Applicants deserve the same protection.

8. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.4 of 2020 registered with Worli Police Station, the Applicants are directed to be

released on bail on their furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) The Applicants shall attend the concerned Police Station as and when called.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)