

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 472 OF 2021

1. Mrs.Seema Arvind Kamble,
Age-31 Years, Occupation – Household,
Address – Triveni Nagar, Tadawale,
Pune-412 114.
2. Mr.Sudhir Dagdu Khirid,
Age-41 Years, Occupation – Business,
Address – Gat No. 365, Khiridwasti,
Moshi Haveli, Pune-412 105. .. **APPLICANTS**

VERSUS

1. State of Maharashtra (Through)
Rahuri Police Station. ..**RESPONDENT**

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Ms.Kshitija Sarangi, Advocate for the applicants.
Mr.V.M.Kagne, APP for the respondent-State.

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**CORAM: MANGESH S. PATIL, J.
DATE : 25.06.2021.**

P.C.

This is an application under Section 438 of the Criminal Procedure Code as the applicants are apprehending arrest in connection with Crime No.64/2021 registered with Rahuri Police Station, District Ahmednagar, for the offences punishable under Sections 406, 418, 420 r/w. 34 of the Indian Penal Code.

2] The allegations are to the effect that the applicants along with two others were partners of a Firm which was successful in a tender process floated by the informant Grampanchayat for supply of garbage carrier. It is alleged that a damaged vehicle was supplied. When the fault was pointed out, it was taken back and was replaced after sometime by another vehicle. However, the relevant documents of the vehicle were never handed over and later-on it was transpired that the Firm had procured that vehicle from a third person but had not paid the entire amount agreed to be paid to the latter. As a result, it had refused to hand over the papers. It is therefore alleged that the applicants have cheated the Grampanchayat and misappropriated the money.

3] The learned Advocate for the applicants would submit that though the applicants were once upon a time partners in the firm, they had resigned in the year 2017. A notarized document was also brought into existence. The disputed transaction has taken place post their retirement and they cannot be held liable for anything as is being alleged.

4] In the alternative, the learned Advocate would submit that the informant, who is a Village Officer, has conveniently omitted to disclose the fact about the period for which the Grampanchayat has used the vehicle. There was no

deception and there is no misappropriation.

5] Lastly, the learned Advocate would submit that pursuant to the ad-interim bail granted by this Court, the applicant no.1 attended the concerned Police Station thrice but could not obey the conditions thereafter due to lock down and the fact that her husband suffered from COVID-19 infection whereas the applicant no.2 has punctually attended the concerned Police Station.

6] Learned APP would oppose the application. He would submit that it is a matter of cheating. A faulty piece was delivered knowing that it was faulty. Under the garb of replacement, some other vehicle was handed over to the Grampanchayat but its title was not clear. It is a matter, therefore, of cheating and misappropriation which can be investigated only by resorting to custodial interrogation of the applicants. Learned APP would also submit that even second vehicle given by way of a replacement has been taken back by the original supplier / owner, who had supplied it to the Firm of the accused. It is a clear case of cheating and misappropriation.

7] Learned APP would further submit that though the applicants are showing ignorance inasmuch as they now state that they have resigned from partnership in the year 2017, it is a conveniently plea. The document to that effect

has been executed in the year 2020. Meaning thereby that it is only an attempt to shirk the liability that the document has been brought into existence.

8] I have gone through the papers of the investigation. Going by the allegations, it is apparent that it is pursuant to the tender floated by the Grampanchayat that the vehicle was agreed to be supplied / sold. Assuming that a faulty piece was supplied and subsequently there was replacement but even its ownership / title was not clear, one cannot draw any inference that since inception the applicants and other partners were intending to deceive the Grampanchayat in parting with the money and derived some wrongful gain.

9] Be that as it may, going by the allegations, custodial interrogation of the applicants does not seem to be imperative. Though there could be a civil liability, there is nothing to be recovered from or discovered by the applicants.

10] Admittedly, the applicants were granted ad-interim anticipatory bail. The applicant no.2 has punctually obeyed the conditions regarding attendance to the concerned Police Station. Though the applicant no.1 is alleged to have disobeyed the condition, she did attend the Police Station thrice. Now she states that she could not attend thereafter because of the husband's illness.

11] Whatever may be the reason, the fact remains that the applicant no.1 has attended the concerned Police Station at least thrice which must have enabled the Investigating Officer to interrogate her.

12] Considering all the aforementioned facts and circumstances, the ad-interim anticipatory bail deserves to be confirmed.

13] The application is allowed. The ad-interim anticipatory bail granted vide order dated 11.05.2021 stands confirmed with the same terms and conditions with a modification that as far as attending the concerned Police Station is concerned, the applicants shall now attend the concerned Police Station on 03.07.2021 between 12.00 noon to 2.00 p.m. and shall co-operate the Investigating Officer.

[MANGESH S. PATIL, J.]

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