

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

ANTICIPATORY BAIL APPLICATION NO. 67 OF 2020

1. Shehnaz Mohd. Ali Khan
2. Mohmed Ali Khan
3. Amhed Ali Khan ... Applicants

Versus

The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 168 OF 2020**

Rizwan Khan ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Sandeep Mishra a/w Mr. Swapnil Patil i/by Mr. Santosh Bhamre, Advocate for the Applicants in both matters.

Mr. S. R. Agarkar, APP for the Respondent – State.

Mr. Rizwan Khan, Applicant in ABA 168 of 2020 Present in Court.

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CORAM : PRAKASH D. NAIK, J.

DATE : 28th SEPTEMBER, 2021

PER COURT:

1. The applicants are apprehending arrest in C.R. No. I-1103 of 2019 registered with Mumbra Police Station for offences under Sections 448, 465, 467, 471 r/w Section 34 of Indian Penal

Code (for short “IPC”). The First Information Report (for short ‘FIR’) was registered on 17th December, 2019.

2. The applicant No.1 is the sister of the complainant. Applicant No.2 is the husband of the applicant No.1 and applicant No.3 is brother of applicant No.2 in ABA No.67 of 2020. The applicant in ABA No.168 of 2020 is the son-in-law of accused No.1. It is alleged that the applicant Rizwan Khan had forged the documents i.e. Memorandum of Understanding dated 13th March, 2019 and attempted to extinguish the rights of the complainant and transfer of her legal rights himself.

3. The case of the complainant is that accused Rizwan Khan in connivance with other applicants forged the documents viz. Memorandum of Understanding and attempted to transfer the rights of the complainant in property bearing flat No.406, Jubili Pank, Devari Pada, Kausa, Mumbra, Dist. Thane and committed offence under Section 471 of IPC.

4. This application was heard on 10th January, 2020. The Memorandum of Understanding which was allegedly forged document was placed on record which is purportedly signed by the complainant as transferer and one of the accused as transferee. The submission was made at the instance of learned counsel for the

applicants would hand over the original document i.e. Memorandum of Understanding dated 13th March, 2019 to the Investigating Officer. The Investigating Officer was directed to obtain specimen handwriting of applicant Nos.1 and 2 in ABA No.67 of 2020 and the complainant and sent it for handwriting expert opinion. Submissions were also advanced that the applicants in ABA No.67 of 2021 would not create any third party rights in the disputed flat nor part with possession of it. The undertaking was accepted. In the order dated 10th January, 2020 it was observed that the applicants therein was senior citizen and the dispute is amongst family members of the flat in question. Whether the Memorandum of Understanding is forged document or otherwise could be ascertained after receiving the report of handwriting expert. It was also observed that the role attributed to the applicants in ABA No. 67 of 2020 does not require their custodial interrogation. Memorandum of Understanding in question does not show any required legal rights being created or sought to be created in favour of the said applicants. Interim protection was granted to them with direction to report the Investigating Officer on stipulated dates and cooperate with investigation. Learned counsel for the applicants on instructions submits that the applicants have complied the said directions.

4. Interim order was passed on 22nd January, 2021 in ABA No.168 of 2021. The applicant therein is the son-in-law of the accused No.1. The undertaking was given that the applicant therein shall not create any third party rights in the said property. He was directed to report the Investigating Officer on specified dates and also directed to give specimen handwriting to the Investigating Officer. The Investigating Officer was directed to forward the documents, specimen handwriting of all the accused to the handwriting expert and obtained the report.

5. Learned counsel for the applicants on instructions submits that the directions to appear before Investigating Officer is complied. The original MOU has been handed over to the Investigating Officer and specimen handwriting of all the applicants in both applications are obtained by the Investigating Officer.

6. In the light of the aforesaid factual aspects, applicants need not be subjected to custodial interrogation.

7. Hence, I pass the following order:

ORDER

(i) Anticipatory Bail Application Nos. 67 of 2020 and 168 of 2020 are allowed;

(ii) Interim orders dated 10th January, 2020 and 22nd January, 2020 are confirmed.

(iii) In the event of arrest of the applicants in connection with C.R. No. I-1103 of 2019 registered with Mumbra Police Station, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.20,000/- each with one or more sureties in the like amount;

(iv) The applicants shall attend the investigating officer as and when called for.

(v) Anticipatory Bail Applications are disposed of accordingly.

(PRAKASH D. NAIK, J.)