

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

ANTICIPATORY BAIL APPLICATION NO.59 OF 2019

Smt. Anita Sunil Matai & Anr. Applicants

Vs.

The State of Maharashtra Respondent

**ALONGWITH
CRIMINAL APPLICATION NO. 100 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.59 OF 2019**

Mr. Narain Bhagwandas Vasandnani Applicant/
Intervenor

IN the matter between

Smt. Anita Sunil Matai & Anr., Applicants/
Original Accused

Vs.

State of Maharashtra Respondent

**ALONGWITH
CRIMINAL APPLICATION NO. 333 of 2019
IN
ANTICIPATORY BAIL APPLICATION NO.59 OF 2019**

Kishore Kakumal Keswani

.... Intervenor

In the matter between

Smt. Anita Sunil Matai & Anr.,

.... Applicants/

Vs.

State of Maharashtra

.... Respondent

Mr. Suresh A. Malkani for Applicants in ABA.

Ms. Sharmila S. Kaushik, APP for State of Maharashtra

Mr. Sanjiv P. Kadam a/w Varsha M. Thorat a/w Vilasini Balasubramanian
for Intervenor in APPP 100 of 2019.

Mr. Subhash Jha a/w Siddharth Jha a/w Mr. Tanmay Malusare i/by Law
Global Advocates for Intervenor in APPP No. 333 of 2019.

Mr. Atul Maruti Sonawane, API, Vitthalwadi PS present.

Coram : NITIN W. SAMBRE, J.

Date : 24TH AUGUST, 2021

P.C.:

1. Both the applicants who are husband and wife are seeking pre-arrest bail in Crime No. I-415 of 2017, registered with Vithalwadi Police Station, Ulhasnagar-4, for the offence punishable under Sections 420, 406 read with 34 of Indian Penal Code.

2. This Court, on 21st January, 2019 refused to grant ad-interim protection. As a consequences, the applicants approached the

Apex Court and the Apex Court has granted protection from arrest with a rider that the applicants shall co-operate in the investigation.

3. Since the present application is pending for about last two years, on 7th July,2021, the applicants were called upon to make a statement about deposit of the amount of consideration received by them in the fraudulent transaction of property, in view of undertaking given by the applicants to this Court. The parties were also granted liberty to mention the matter in case if the Apex Court decides SLP, in which ad-interim order was passed.

4. The matter was listed Yesterday i.e. on 23rd August, 2021 and at the behest of Counsel for the Applicants, it is posted today for reporting compliance and/or working out the matter on merits.

5. The applicants were made aware about the fact that this Court shall deal only with the merits of the matter as they were already protected by the Apex Court.

6. When the matter is called out today, the Counsel for the applicants, on instructions, from Applicant No.2, who happens to be husband of applicant no.1 informs that the matter before the Apex Court is likely to be listed at the earliest and that being so, this Court should defer the hearing of the application.

7. The fact remains that in the order of this Court dated 21st January, 2019 and 23rd January, 2019, the applicants have shown their willingness and accordingly undertaken to deposit of Rs.42.00 Lakhs in this Court. Till this date, the said undertaking is not honoured.

8. The prosecution case against the applicant is in 2007, he has sold the property bearing plot No. 618 for valid consideration. For the very same property, the applicant has executed an irrevocable power of attorney thereby giving power to sell in favour of one Kishor Keshwani and Manohar Keshwani on 20th January, 2004, which fact was suppressed. It is also claimed that very same property was purchased by Mr. Pradip Arjun Ramchandani, who has initiated Civil Suit No. 56 of

2005, in which the appeal is pending. It is claimed that inspite of aforesaid sale-deed, the original title deeds are not handed over by the Applicants and at the behest of one Kishor Keshwani, Crime No. 81 of 2008 punishable under Sections 420, 409 and 107 of the Indian Penal Code is also registered against the applicants.

9. As this Court intends to hear the applicant on the aforesaid transaction so as to find out whether the applicants have a case for grant of pre-arrest bail particularly having regard to the fact that there are ad-interim protection ordered by the order of Apex Court, since last two years and since the applicants have instructed their Counsel not to argue the matter on merits, the Court is required to left with no option but to proceed to pass this order.

10. In response to the Court's query, learned APP informs that the applicants' custody is required for recovery of amount as in relation to very same property, the applicants have entered into number of transactions and committed an offence of cheating.

11. For the reasons recorded above, in my opinion, case for grant of pre-arrest bail is not made out. As such, same stands rejected. Pending applications also stand disposed of.

12. However, since this Court is sensitive to the interim protection ordered by the Apex Court in the matter, effect and implementation of this order of rejection of the application is stayed for a period of six weeks from today.

(NITIN W. SAMBRE, J.)