

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

ANTICIPATORY BAIL APPLICATION NO.638 OF 2019

Sujata Abhay Bhame

.... Applicant

versus

State of Maharashtra

.... Respondent

.....

- Ms.Urvi Vaidya a/w Ajit Anekar a/w Surabhi Sawant i/b. Auris Legal, Advocate for Applicant.
- Ms.Vrushali Raje, Advocate for Respondent No.2 (Appointed).
- Mr.S.H. Yadav, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.332/2018 registered with Khadak Police Station, Pune, on 04/10/2018 under sections 420, 467, 468, 471, 34 of the Indian Penal Code.
2. The FIR is lodged by sister-in-law of the Applicant. She has stated that her father-in-law Mukundrao Ganpatrao Bhame

and his two brothers were having an ancestral property on survey No.187, Shukravar Peth, Pune. In the year 1985 a development agreement was executed between then owners and the developers for constructing a new building on that spot. The informant's father-in-law Mukundrao was given flat Nos.13, 17 and 18 on the forth floor of the building, besides one terrace. The FIR mentions that the flat No.13 was given to the informant's husband Pradip Bhame and the Applicant's husband Abhay Bhame. Pradip and Abhay Bhame were brothers. The other flat Nos.17 and 18 were occupied by the informant's father-in-law and other brothers-in-law Sanjay Bhame and Vilas Bhame. The dispute is about the flat No.13.

3. It is alleged in the FIR that the informant with her husband Pradip and the Applicant with her husband Abhay were residing jointly in flat No.13. It was admeasuring 804 Sq.ft. In the year 2004 the informant and her husband went to reside in a new flat at Dhankavdi, but before going they had constructed a partition wall in the flat and secured their physical share in the

flat. Initially the informant and her husband had kept a tenant, but he had left that flat in the year 2008 and since then the flat was locked. It is further alleged that after a few days, the Applicant's husband Abhay wanted to obtain loan from a bank and for that he got flat No.13 transferred in his name without telling the informant and her husband. The informant has stated that there were two separate meters for electricity in the name of Abhay and Pradip. In the year 2013 the informant came to know that some third person was renovating the flat. Therefore the informant and her husband enquired further and they came to know that Abhay had sold that flat to one Jyotsna Sutar for Rs.15 lakhs and a document was executed between them. It was registered on 27/06/2013. The Applicant and her husband assured that the informant and her husband would be given their share of the sale proceeds. Believing them, the informant and her husband did not approach the police. After their persistent demands, the informant and her husband were given different cheques, but they were dishonoured. The informant came to know that Abhay had filed a Special Civil Suit

No.273/2016 in the Court of Civil Judge, Senior Division against Jyotsna Sadashiv Sutar. In that suit, the informant and her husband were added as parties. The informant and her husband took out documents relating to that suit and they found that Abhay had executed an affidavit mentioning that he was the sole heir of Mukundrao Bhame. It was also noticed that certain forged documents in the nature of 'No Objection Certificate' issued by the residential cooperative society using forged seals of the Chairman and Secretary of the society, were tendered in the Court. On this basis FIR is lodged.

4. Heard Ms.Urvi Vaidya, learned counsel for the Applicant, Ms.Vrushali Raje, learned counsel for the Respondent No.2 and Mr.S.H. Yadav, learned APP for the State.
5. Learned counsel for the Applicant submitted that it is basically a civil dispute. As mentioned in the FIR a civil suit is pending before the Civil Court. The Applicant has no role to play in the entire transaction. The allegations are mainly directed against her husband Abhay. The husband of the Applicant was

already arrested and was released on bail. The transaction pertains to the year 2013. The FIR is lodged in the year 2018. After all these years, the custodial interrogation of the Applicant is not necessary.

6. Learned APP as well as the learned counsel for the Respondent No.2 – first informant, submitted that the Applicant was residing in that flat. There are allegations in the FIR against her as well. She had knowledge of entire transaction. Therefore her participation in the conspiracy will have to be considered. They submitted that even the cheques given to the informant were dishonoured. Therefore the Applicant cannot claim ignorance about the entire transaction.

7. I have considered these submissions. As rightly submitted by the learned counsel for the Applicant, the transaction pertains to the year 2013. The informant was aware of such transaction and yet the FIR was lodged in the year 2018. The explanation in that behalf is very weak.

8. The entire FIR shows that the allegations are directed basically against the Applicant's husband. He had executed the affidavit which purportedly was a false affidavit mentioning that he was the sole heir. Similarly, the allegations of forgery and tendering various documents to authorities is also against the husband of the present Applicant. There is hardly any role attributed to the present Applicant. The main accused i.e. the Applicant's husband was already arrested and released on regular bail. The Applicant has not executed any false affidavit. As mentioned earlier a Civil Suit is pending between the main accused Abhay and the alleged purchaser Jyotsa Sutar. Even as per the allegations in the FIR it was always Abhay and Pradip Bhame, who were owners of the flat. Therefore, in any case, the present Applicant cannot have any role in entering into any sort of transaction in respect of that flat. Considering all these aspects and also taking into account the fact that the Applicant is a lady, her custodial interrogation is not necessary. She can be protected by an order of anticipatory bail. She of course will have to cooperate with the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.332/2018 registered with Khadak Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)