

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

**ANTICIPATORY BAIL APPLICATION (ST.) NO. 3059 OF 2020
WITH
INTERIM APPLICATION NO.513 OF 2021**

Hetal Dave D/o. Sudhir Dave
@ Mrs. Hetal Sujit Sharma ... Applicant
Versus
The State of Maharashtra ... Respondent

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO.408 OF 2021**

Sudha Vijaynath Sharma ... Applicant
Versus
The State of Maharashtra & Anr. ... Respondents

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Mr. Gyanprakash Pal i/b. M/s. Maharashtra Law Juris, Advocate for the Applicant in ABA Nos. 367 & 408 of 2021.

Mr. Rahul Dingankar i/b. Ms. Suvarna Avhad Vast, Advocate for the Intervenor.

Ms. M. R. Tidke, APP for the Respondent – State.

Ms. Shital Jadhav, (WPSI), Ghatkopar Police Station, Mumbai, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 18th MARCH, 2021

PER COURT:

1. Both the applicants are apprehending arrest in C.R. No. 100 of 2020 registered with Ghatkopar Police Station, Mumbai for offences under Sections 406, 420 r/w Section 34 of Indian Penal Code (for short “IPC”). The First Information Report (for short ‘FIR’) was lodged on 5th February, 2020.

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2. The case of the prosecution is that the applicant in Anticipatory Bail Application No. 408 of 2020 (Sudha Sharma) is the aunt of the complainant. She has represented that she can arrange a flat from Mhada. The amount of Rs. 4 Lakhs were parted by the sister of complainant into account of Sudha Sharma. On 15th September, 2019 Sudha Sharma stated that 4 Lakhs were given to Mhada officer and 8 Lakhs will have to be given for further work. She demanded cash. Cash of Rs. 8 Lakhs were parted on 24th September, 2019. It was informed that possession of flat will be given on 15th November, 2019. Subsequently, Rs.6 Lakhs were given to her on 27th September, 2019. It is also alleged that accused had introduced the complainant to co-accused Lawrence Miranda. He gave blank cheque to complainant. Sudha Sharma gave three cheques. Cheque of Miranda dishonoured. Applicant Hetal Dave accompanied the Sudha Sharma at the time when false representation was made.

3. The applicants had preferred an application for anticipatory bail before the Sessions Court which was rejected vide order dated 25th June, 2020.

4. Learned counsel for the applicants submitted that the allegations are false. Custodial interrogation of the applicants is not

necessary. The FIR is concocted. The applicant Sudha Sharma had lodged the complaint on 14th December, 2019. Advocate's notice was also issued at her instance on 20th December, 2019 to the complainant and others. At the most it can be seen that the amount of Rs. 4 Lakhs were received by Sudha Sharma. There is no proof of parting cash amount. Co-accused Lawrence was arrested and he has been granted regular bail by this Court.

5. Learned APP submitted that specific role has been attributed to both the applicants. False representations were made to the complainant. She was induced to part with the payment. Offence of cheating is made out. There is sufficient evidence against the applicants. Three other cases were registered against the applicant Sudha Sharma. The said offences was registered with Borivali Police Station, Mumbai in C.R. No. 336 of 2006 under Sections 465, 468, 471, 420 r/w Section 34 of IPC and Vanrai Police Station in C.R. No. 108 of 2012 for offences under Sections 406, 419, 420, 463, 471 r/w Sections 34 of IPC.

6. Learned counsel for the intervenor also opposed application for anticipatory bail. It is submitted that both the applicants have played vital role in deceiving the complainant.

7. On perusal of the FIR it is apparent that according to the

complainant, false promise was made to the complainant by applicant Sudha Sharma. Amount was parted towards the flat which was to be arranged from Mhada. Prima facie the FIR and other material on record indicates the complicity of the applicant Sudha Sharma. Two other cases were registered against her in the past as stated herein above. However, the role which is attributed Hetal Dave is that she had accompanied Sudha Sharma. In these circumstances, no case for grant of anticipatory bail is made out by applicant Sudha Sharma. However, relief under Section 438 of Cr.P.C. can be granted to Hetal Dave. Hence, I pass the following order:-

ORDER

- (i) Anticipatory Bail Application No.408 of 2021 preferred by Sudha Vijaynath Sharma is rejected and Anticipatory Bail Application (St.) No. 3059 of 2020 preferred by Hetal Dave is allowed;
- (ii) In the event of arrest of the applicant Hetal Dave in connection with C.R. No. 100 of 2020 registered with Ghatkopar Police Station, Mumbai, the applicant Hetal Dave be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) Applicant Hetal Dave shall attend the investigating officer as and when called for.
- (iv) Anticipatory Bail Applications as well as Interim application are disposed of accordingly.

8. At this stage learned counsel for the applicant prayed for extension for interim relief. The prayer is rejected.

(PRAKASH D. NAIK, J.)