

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.1466 OF 2020

Mangilal Jain and others	Applicants
versus	
The State of Maharashtra	Respondent

WITH
INTERIM APPLICATION NO.160 OF 2021

Suvarna Ramakant Somani	Intervenor
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<u>In the matter between :</u>	
Mangilal Jain and others	Applicants
versus	
The State of Maharashtra	Respondent

Mr.Siddhesh Bhole with Nikhil Ghate i/by SSB Legal and Advisory for applicants.

Mr.Ganesh Gole i/by Ateet Shiodkar for intervenor.

Mr.Y.M.Nakhawa, APP, for State.

ASI S.K.Jagtap, MPC Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 27th January 2021

PC :

1. This is an application for bail in connection with CR No.I-21 of 2020 registered with Mahatma Phule Chowk Police Station, Kalyan for offences punishable under Sections 420, 406 r/w 34 of Indian Penal Code.

2. The FIR was registered on 15th January 2020. The case of the complainant is that at around end of March-2019, the accused had

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accepted gold jewellery worth Rs.45 lakh for sale. Security cheques were issued which were dishonoured. Promissory note was also issued. Amount not returned.

3. The applicant nos.1 and 3 were arrested on 28th January 2020 and applicant no.2 was arrested on 19th March 2020.

4. At the outset learned counsel for applicant, on instructions, has submitted that to show the bona fides, the applicants are willing to deposit Rs.25 lakh without prejudice to their defense. The undertakings executed by applicant nos.1 and 2 before Jail authorities where they are detained, are submitted before the Court. In the said undertakings it is mentioned that applicant nos.1 and 2 would deposit total amount of Rs.25 lakh within a period of twelve weeks from the date of release. The undertakings are taken on record and marked "X" and "X-1" for identification.

5. Mr.Gole appearing for the complainant submitted that the address of the applicants stated in the title of the application is not correct. The applicants are not residing at the said premises. In reply to the submission, learned counsel for applicants, on instructions, submitted that after released on bail, the applicant nos.1 and 2 would reside at "303/G, Mangla Prastha CHS, near Don Bosco School, Aadharwadi Chowk, Kalyan West-421 301." Applicant no.3 would reside at 102, Damyanti Tower, Jain Society, near HDFC Bank, Sanoshi Mata Road, Kalyan West-421301.

6. Learned APP, on instructions, submitted that properties of the applicants are auctioned by the bank. The aforesaid premises

reflected in the title of the application as residential address of applicants, is also auctioned.

7. Learned counsel for applicants submits that the applicants are in custody for substantial period of time. Unless they are released on bail, it is not possible for them to arrange amount stipulated in the undertakings since properties were auctioned. The applicants have no other option but to reside in the premises on leave and license. The applicants are willing to give local surety from Kalyan, District Thane.

8. Learned counsel for intervenor Mr.Gole submitted that amount of Rs.25 lakh, if deposited by the applicants in this Court, be allowed to be withdrawn by the complainant. The prayer is objected by learned counsel for applicants.

9. The applicants are in custody for substantial period of time. In view of undertakings, on conditions, the applicants can be released on bail. Hence, I pass following order :

ORDER

- (i) Criminal Bail Application No.1466 of 2020 is allowed and disposed of;
- (ii) The applicants are directed to be released on bail in connection with CR No. I-21 of 2020 registered with Mahatma Phule Chowk Police Station, Kalyan, on their furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall provide details of their place of residence to Investigating Officer;

- (iv) The applicants shall report to Mahatma Phule Chowk Police Station, Kalyan once in a month on every first Saturday between 11 am and 1 pm;
- (v) The applicants shall abide by the undertakings submitted to this Court. In the event of breach of any of the conditions of undertakings, the prosecution or the complainant would be at liberty to prefer application for cancellation of bail;
- (vi) Amount of Rs.25 lakh as stipulated in the undertakings be deposited before Trial Court within twelve weeks from the date of release. The said Court shall consider the amount as subject matter of proceedings. In the event any application is preferred by the parties for return of amount, the same shall be decided in accordance with law;
- (vii) The applicant no.3 is permitted to furnish cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety.
- (viii) Interim Application does not survive and stands disposed of as such.

10. This order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

(PRAKASH D. NAIK, J.)

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