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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1427 OF 2019

RUTUJA MILIND RODE

....APPLICANT

V/s.

**THE STATE OF MAHARASHTRA
AND ANR**

.....RESPONDENTS

Mr. Harshad Nimbalkar a/w Mr. Satyam H. Nimbalkar @ Mr. Shivam Nimbalkar a/w Mr. Hrishikesh Kamble for the applicant
Ms. Sharmila S. Kaushik APP for the State
Mr. Priyal Sarda for Respondent no. 2
Mr. Sandeep Jadhav, PSI Deccan Police Station

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 9, 2021.

P.C.:

1] Applicant is seeking pre-arrest bail in C.R. No. 115/2019 registered with Deccan Police Station for offences punishable under Sections 420, 405, 406, 467, 465, 468, 471, 477 120B r/w 34 of the Indian Penal Code. Applicant was on interim protection vide order dated 04/07/2019.

2] This Court on 04/07/2019 and 22/02/2021 has directed APP to file an affidavit demonstrating involvement of the applicant in the crime in question and stage of the investigation.

3] Prosecution case against the applicant is, applicant is one of the Directors of the company Meta Arch Pvt. Ltd. Said Meta Arch entered into an agreement with complainant firm in regard to the development of immovable property. It is further claimed applicant alongwith her father who are directors of said firm Meta Arch has prevailed upon the complainant to obtain loan and the said loan amount was misused.

4] Apart from above, the allegations against applicant are, she being a qualified architect, misrepresented the complainant, forged the complainant's signature so as to get the maps sanctioned from the competent authority. As such applicant has caused substantial monetary loss to the complainant by practicing fraud, cheating, criminal breach of trust etc.

5] In the aforesaid background, learned counsel for the applicant while trying to make out a case for grant of pre-arrest bail would urge that F.I.R. speaks of involvement of father of the applicant i.e. Mr. Milind Rode who was already arrested and released on regular bail. It is also claimed that father of the applicant is charge-sheeted. Apart from above, certain documents viz. Contract agreement, clause in regard to the appointment of independent architect by the complainant, affidavit of complainant appointing witness Mr. Sachin Punde for getting sanctioned lay out and building plan, maps submitted to the competent authority under the signature of the said consultant Mr. Sachin Punde are relied on so as to demonstrate that applicant is falsely implicated in the crime in question.

6] While countering the aforesaid submissions, learned APP assisted by the learned counsel for the complainant would invite attention of this Court to the contents of two affidavits filed by Investigating Officer and also statement of witness Sachin Punde so as to demonstrate *prima facie* involvement of the applicant in the crime in question. Learned APP would specifically harp upon

requirement of custodial interrogation of the applicant for (a) to fetch specimen of the handwriting and (b) for recovery of the amount and also other documents viz. Plans, communications etc.

7] Having considered said submissions, there is material on record to infer that witness Sachin Punde was appointed by the complainant himself as his consultant planner pursuant to the contract agreement dated 16/05/2018. *Prima facie* inference to that effect can be drawn from an affidavit sworn by the complainant which is produced on record. Apart from above, the fact remains that maps securing sanction plan and regulation from competent authority appears to have been submitted under the signature of the complainant and said witness Sachin Punde.

8] Even if learned APP has disputed the fact that complainant has signed the map, the fact remains that for having specimen of hand writing of the applicant, custodial interrogation is not required particularly when learned counsel for the applicant has submitted that applicant has already appeared before the Investigating Officer

and shall appear as and when directed for furnishing specimen of the hand writing.

9] Since the statement is made on instructions, same as accepted as an undertaking.

10] Apart from above, perusal of F.I.R. which is purely based on allegation of conspiracy, does not speak of any specific role as against the applicant in the matter of hatching conspiracy. Rather by way of improved story, role is attributed to the applicant as that of illegal planning, forged signature of the complainant and misappropriation of the amount.

11] In the wake of aforesaid observations, particularly as regards the availability of the applicant for investigation, she being on ad-interim protection from this Court for last two years and the appointment of an independent planner Mr. Sachin Punde by the complainant, in my opinion, *prima facie* involvement of the applicant cannot be inferred so as to warrant custodial interrogation.

12] In that view of the matter, ad-interim protection granted vide order dated 04/07/2021 stands confirmed. Application stands disposed of with following conditions:

(I) In the event of arrest in C.R. No. 115/2019 registered with Deccan Police Station, applicant be released on bail on furnishing P. R. bond in the sum of Rs. 50,000/- with one or more sureties in the like amount.

(ii) Applicant shall attend the Investigating Officer on 23/08/2021, 25/08/2021 and 27/08/2021 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.

(iii) Applicant shall not influence the witnesses or tamper with evidence in any manner.

[NITIN W. SAMBRE, J.]

IRESH
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MASHAL

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