IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2235 OF 2021

Prasanna Arun Shirudkar & Anr. .... Applicants
Versus
The State of Maharashtra .... Respondent

Mr. Shashikant Chaudhari i/b. Maharashtra Law Associates for Applicants.
Mr. Y. M. Nakhwa, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st SEPTEMBER, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. 571 of 2021 registered at Bhosari Police Station, Pimpri-Chinchwad, on 26/08/2021, under sections 419, 420, 465, 467, 468 and 471 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Shashikant Chaudhari, learned counsel for the applicants and Shri. Nakhwa, learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged by one Amit Ghule. He has stated that, he is in the construction business by the name Sharda Group. He had

constructed buildings known as Sharda Complex and Shara Suman Arcade. Both these buildings are completed. The buildings are within the territorial jurisdiction of Manjri Budruk Gram Panchayat. According to him, in the past, the Gram Panchayat used to make a note of the completed construction and used to give tax receipt. The flats were registered in the Sub Registrar's office. However, since past one year the Government had imposed some procedural restrictions on sale of flats within the limits of Gram Panchayat, therefore, he could not sell some of his flats. On 28/04/2021, he had gone to the Sub Registrar's office at Dapodi, Pune to meet Advocate Pathan. He, in turn, introduced the informant to both these applicants. He was told that the applicants were advocates. On the next day also the informant had gone to the same office of the Sub Registrar. Again he met both the applicants. At that time, they represented to the informant that they were in a position to complete the registration of sale of his flats, but for that purpose the informant was required to pay Rs.1,10,000/- per flat. On 30/04/2021, the applicant No.1 contacted the informant telephonically and reminded him of his offer. The informant accepted their offer and agreed to make the payment. He gave Power of Attorney to his employee Swati Bhamre. The applicant Sharvari told the informant that the flat purchasers and witnesses were required to remain present in the Sub Registrar's office on 18/05/2021 and 19/05/2021. The informant had paid the Stamp duty and registration fees and the chalan was given to the applicant Sharvari. On 18/05/2021 two flat purchasers, witnesses and the informant's power of attorney Swati were present in the Sub Registrar's office. The F.I.R. mentions that, his employee Govardhan Salunke handed over amount of Rs.7,80,000/- in cash to both the applicants on 18/05/2021. The same procedure was repeated on the next day i.e. on 19/05/2021 in respect of other flat owners and on that day again different flat owners and witnesses were present. On both these days registration of the documents was made. It is the case of the informant that, he had transferred some amount through his bank in the account of the applicant Prasanna. In all, he had paid Rs.13,08,000/- as demanded by the applicants. In the last week of May 2021, the flat owners started demanding their registered documents. The informant made inquiries. He saw uploaded documents. He came to know that the RERA documents and PMRDA documents were forged and then uploaded. RERA registration of that particular property was not done and yet same RERA registration number was given. He was convinced that the documents were forged. He contacted the applicant Prasanna. According to the first informant, the applicant No.1 accepted that the documents were forged, but he promissed that he would correct it. After that the applicants never contacted the informant and avoided him. On 07/07/2021 finally the applicant Sharvari replied to his phone call. At that time, she confessed that, she was not an advocate and requested the informant not to lodge any complaint and she would take corrective steps. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicants submitted that, before registration of the F.I.R., initially the investigating agency did not want to arrest the applicants and, therefore, the Sessions court had directed the investigating agency to give 48 hours notice if they want to arrest the applicants. Subsequently, after

registration of F.I.R. the investigating agency started taking steps to arrest the applicants. Therefore, the applicants have moved for anticipatory bail before the Sessions Court. It was rejected. He submitted that the applicants are willing to return the amount which they had received from the first informant. He submitted that, it is only after Advocate Pathan raised objections because his documents were not get registered, this F.I.R. is lodged at the behest of Sub Registrar as the Sub Registrar had already given a complaint to the police.

5. Learned APP opposed this application. He submitted that the offence is serious, therefore, custodial interrogation of the applicants is necessary. The offence is against the public policy and, therefore, anticipatory bail should not be granted to the applicants.

6. I have considered these submissions. It is not only the question of loss suffered by the first informant, but the manner in which the offence is committed is quite serious. The documents which cannot be registered were registered because of the applicants. For that purpose the forged documents of the

authorities were uploaded. This is quite serious and requires custodial interrogation of the applicants. The manner in which the documents were forged can only be found during the custodial interrogation. The dishonest intention right from the beginning is very clear in the facts of the case. The applicants had also represented that they were advocates which fact is also not correct. Considering all these allegations, no case for grant of anticipatory bail order is made out. Custodial interrogation of the applicants is necessary.

7. The application is, therefore, rejected.

(SARANG V. KOTWAL, J.)