

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

**ANTICIPATORY BAIL APPLICATION NO. 2738 OF 2019
WITH
INTERIM APPLICATION NO. 1020 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO. 2738 OF 2019**

1. Mushtaque Gulabbhai Tamboli
2. Shakil Gulabbhai Tamboli
3. Faimida Gulabbhai Tamboli Applicants
v/s.
The State of Maharashtra Respondent

Mr. Chaitanya A. Malgaonkar i/b. Mr. Akshay M. Gosavi
for the Applicants.

Mr. Ajay Patil, APP for the State.

M. Sidheshwar N. Biradar for the Intervenor.

CORAM: SARANG V. KOTWAL, J.

DATED : 23rd SEPTEMBER, 2021.

P. C. :-

. The Applicants are seeking Anticipatory Bail in connection with C.R.No.579/2019 dated 17/06/2019 registered with Chaturshrungi Police Station, Pune for offences punishable under sections 323, 420, 426, 447, 448, 465, 467, 468, 471, 120-B r/w. 34 of the Indian Penal Code.

2. Heard Mr. Chaitanya A. Malgaonkar, learned counsel for the

Applicant, Mr. Ajay Patil, learned APP for the State and Mr. Sidheshwar N. Biradar, learned counsel for the Intervenor.

3. The first information report (for short 'FIR') is lodged by one Shabbir Bhikanbhai Tamboli. He has stated that his father was given a room bearing room no.802, Chawl No.86, Gokhale Nagar, Chaturshringi, Pune-56 by MHADA on 30/06/1966 by their letter. In the year 1992, by another scheme his father was sold that particular room for Rs.11,157/-. The FIR mentions that in the year 1980 his father permitted the Applicant No.1 - Mustaque Tamboli who was his nephew i.e., his brother – Gulaabhai's son to reside in that room. Mustaque was taking education in a college at Pune. Since 1980, he was thus residing there. In 1993, Shabbir's father purchased another property at Hanuman Nagar and started residing there with his family since 1995. Dispute arose subsequently in the year 1996 when allegedly the Applicant No.1 - Mustaque submitted some documents to the authorities purporting to be NOC from Shabbir's father for transferring the said room in the name of Applicant No.1. The FIR mentions different reasons why according to the first informant, the particular document was forged. On this basis, the FIR is lodged.

4. Mr. Chaitanya Malgaonkar, learned counsel for the Applicant submits that the transfer was in the year 1996. The Applicant No.1 was residing there since 1980 but the FIR was lodged after the long period in the year 2019. Therefore, based on these vague allegations, the Applicants custodial interrogation is not necessary.

5. Learned counsel for the Intervenor / First Informant invited my attention to that particular document where the name of the Applicant No.1 was subsequently written. The other matter on the document was in a typed format. The Applicant No.1's name was hand written and it was counter signed by some signature. Name on that signature was not mentioned. It is therefore submitted that it was a clear case of forgery. The Applicants are therefore required to be protected by an order of anticipatory bail. He submits that the possession of the room is with the Applicant No.1 and that the authorities have transferred the room in the name of first informant. Learned APP relied on the same submissions and the submissions made in the FIR.

6. I have considered these submissions. The Applicant No.2 is the Applicant No.1's brother and Applicant No.3 is Applicant No.2's wife. They have no role to play. The transaction had taken place in the year

1996. Informant and his family had knowledge of this fact which is clear from the notice sent by the informant's father's advocate. In spite of this knowledge, FIR is filed after about 20 years in the year 2019. Therefore, there is some substance in the submissions that there was a family arrangement between the parties and no offence is committed by the Applicant. In any case, no specific role is attributed to the Applicants. There was an ad-interim protection in favour of these Applicants since December, 2019. I am informed that the charge sheet is already filed. Learned APP submitted that that charge sheet was filed after completion of investigation. Hence, I am inclined to make the interim relief absolute mainly because there is a gross delay in the lodging of the FIR. The Applicants were on Interim Anticipatory Bail for a period of two years. Now the investigation is completed and the charge sheet is filed. In these circumstances, the Applicants' custodial interrogation is not necessary. They can be protected by an order of Anticipatory Bail. Hence, the following order :-

(a) In the event of their arrest in connection with C.R.No.579/2019 dated 17/06/2019 registered with Chaturshrungi Police Station, Pune, the Applicants are directed to be released on bail on their furnishing P. R.

bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

(b) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(c) Application stands disposed of accordingly.

7. I have heard the learned counsel for the Intervenor. With the disposal of Anticipatory Bail Application, Interim Application does not survive and is disposed of.

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2021.09.28
17:00:26 +0530

(SARANG V. KOTWAL, J.)