

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

ANTICIPATORY BAIL APPLICATION NO.2817 OF 2019

1. Veeranna Mahatappa Havannavar
 2. Vishal Babanrao Shelke
- Applicants

versus

State of Maharashtra

.... Respondent

.....

- Mr.G.S. Godbole i/b. Mr.A.B. Tajane, Advocate for Applicants.
- Ms.A.A. Takalkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th FEBRUARY, 2021

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.184/2012 registered with Daund Police Station, dated 16/09/2012, under sections 420 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Kisan Bamble. He has stated that on 01/05/2010 he was approached by three persons namely Annappa Shivmurti Hippargi (Police Constable), Ramdas

Khandu Girme (Police Constable) and Dinkar Pandurang Suryavanshi (API). They were all police officers. They told the first informant that they were relatives of Applicant No.1, who was constructing a building at survey No.87, Sasane Nagar, Mohammadwadi Road, Hadapsar, Pune by the name 'Shivparvati Apartment', through Viranna Patil Constructions and Developers. They represented to the informant that since the Applicants were their relative, they could get concessional rates for the flats from him. Based on their representation, the informant from time to time gave them Rs.11,56,000/-. Subsequently, the flat was not given. There are allegations that the accused had given the informant receipt in the name of 'Creative Infrastructure, Promoters & Builders'. The receipt was forged and it was not issued by the builder i.e. the Applicant No.1. The informant realized that he was cheated and on this basis FIR was lodged.

3. Heard Mr.G.S. Godbole, learned counsel for the Applicants and Ms.A.A. Takalkar, learned APP for the State.

4. Mr.Godbole submitted that the other accused who had actually taken money were prosecuted in the Court of J.M.F.C., Daund, in R.C.C. No.113/13. All of them were acquitted by Judgment and Order dated 26/05/2015. Thereafter the Applicants were harassed by the police on the threats of arrest. He submitted that the FIR does show that the money was not taken by the present Applicants. The original culprits were the accused who were already acquitted. He therefore submitted that in this view of the matter, custodial interrogation of the Applicants would be absolutely unjustified.

5. Learned APP though could not really justify necessity of custody, he opposed application based on the allegations made in the FIR. She submitted that ultimately the amounts were taken in the name of the present Applicants. Therefore they are involved.

6. I have considered these submissions and in particular I have perused the judgment and order referred hereinabove,

whereby all the other accused namely Annappa Shivmurti Hippargi, Dinkar Pandurang Suryavanshi and Ramdas Khandu Girme were acquitted. In those proceedings present Applicants were shown as absconding accused. It is alleged that they were associated with a construction company, which was to construct the building. Perusal of that judgment shows that the first informant had entered into compromise with the accused who had actually taken money from them. During the trial the prosecution witnesses had turned hostile and therefore those accused were acquitted. There is a clear finding that there was no evidence before the Court that the informant had given Rs.11,56,000/- to the accused facing the trial and that he had suffered loss and that the money was misappropriated. On this clear finding now it is really not justifiable for the police to seek arrest of present Applicants. The entire transaction is from the year 2010. The other accused were acquitted in the year 2013. The present Applicants are on interim protection pursuant to the order passed by this Court since December 2019. The informant had already entered into compromise with the accused who

actually accepted the amount. In this view of the matter, custodial interrogation of the Applicants is not justifiable at all. They are required to be protected by an order of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.184/2012 registered with Daund Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)