IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 120 OF 2022

Geta Raviprasad Yadav & Anr. .... Applicants

Versus

The State of Maharashtra .... Respondent

Mr. Milan Desai i/b. T. R. Patel for Applicant.
Smt. A. A. Takalkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 17th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No. 858 of 2021 registered at Samata Nagar Police Station, Mumbai, on 26/12/2021, under sections 420 and 406 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Milan Desai, learned counsel for the applicants and Smt. Takalkar, learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged by one Kalpana Gawade. She has stated that, she wanted to

purchase a flat at Kandivali, in the year 2013. According to the first informant, both the applicants were in the business of transaction regarding flats which were taken over by the banks in recovery proceedings. The applicants were conducting their business through M/s. Mumbai Property Recovery Management Services India Pvt. Ltd. In April 2013 the applicant Geeta showed a flat No.A-101, 102 in 'A' wing, Jasmin, Poonam Complex Co-op. Hsg. Soc. Ltd., Thakur complex, Kandivali. The informant was told that, one Snigdha Bhalotiya was the owner of those flats and price of one flat was Rs.65 lakhs. The applicant Geeta promised to get those flats from the bank and promised to give them to the informant. She represented to the informant that, she was having power of attorney for those two flats. The F.I.R. mentions that, an MOU was entered into between the informant and the applicant Geeta as a power of attorney holder of the owner. At that time, the informant had given Rs.6,50,000/- to the applicant Geeta for the purpose of that transaction.

4. On 01/08/2013 when the informant went to the flat to take possession, the flat could not be opened; the lock was

different. The informant approached both the applicants. They gave some excuses and did not give any possession letter. The informant came to know that the said flats were already sold to a third person Shri. Kaushik. The informant again approached both the applicants. The applicant No.2 was working with the applicant No.1. At that time, both the applicants told her that, they would give another flat to the informant in place of earlier flats which were agreed to be given. Accordingly, both the applicants showed the informant flat Nos.2003 and 2004 in Oberai Garden, 'B' wing, Thakur village, Kandivali (W). The informant sold her house in Samata nagar and gave money to the applicants to the tune of Rs.65 lakhs. Even thereafter the flats were not given to the informant. Agreement was not executed, money was not returned and the informant realized that she was cheated and, therefore, she lodged this F.I.R.

5. Learned counsel for the applicants submitted that, the allegation that the informant had given Rs.65 lakhs is exaggerated. Certain amounts were received by the applicants, but that amount was much lesser. He submitted that the applicants are willing to

pay Rs.36,45,000/- to the informant without going into the merits of the case. He further submitted that, as far as, merits of the matter is concerned, purported transaction was of the year 2013 and the F.I.R. is lodged in the year 2021. As is mentioned in the F.I.R., there were two flats on each occasion and there has to be separate transaction for each of the flats, as flats were purportedly taken over by the bank in recovery proceedings. He submitted that the informant's story is not true and in the background of these allegations, the applicants' custodial interrogation is not necessary.

6. Learned APP opposed this application. She submitted that, in the year 2013 itself the applicant No.1 had signed an MOU as power of attorney holder of aforementioned Bhalotiya. Thereafter the flat was not given to the informant. She also submitted that the investigation has revealed that, both the applicants have executed receipts on different occasions. Certain amount has gone in the accounts of both these applicants, therefore, both of them are beneficiaries. A clear case of cheating is made out. There is no delay in lodging F.I.R. The applicant waited for long time to get her flat and finally when in February

2021 she was refused to be given any flat and refund of her money, the informant ultimately approached the police and lodged this F.I.R.

7. I have considered these submissions. Undoubtedly, the F.I.R. could have been lodged earlier, but that does not wipe out the fact that the informant has paid substantial amount to both these applicants, which, according to the investigating agency is reflected in the receipts executed by both these applicants. The earlier MOU was also signed by the applicant No.1. Nothing further transpired and the flat was directly sold to a third person behind back of the informant. The informant was given a key which was not useful in opening the flat. Dishonest intention of the applicants was clear from the inception. Huge amount is taken by the applicants over the long period of time. The informant is deprived of her legitimate money and possession of flat. Learned APP has also pointed out that, there are two similar antecedents against both the applicants. In this view of the matter, custodial interrogation of the applicants is necessary to see the money trail and *modus operandi* , as well as, to find out similar victims if any.

No case for grant of anticipatory bail is made out.

8. The application is rejected.

(SARANG V. KOTWAL, J.)