IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.158 OF 2022

Jayshree Jagdish Shrivastav
and another .... Applicants
Versus
The State of Maharashtra .... Respondent

Dr. Abhinav Chandrachud, Advocate a/w. Kishore D. Walanju, for the Applicants.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 20th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R.No.896/2021 dated 28.11.2021 registered at Dadar Police Station, Mumbai under Sections 406, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code.

2. Heard Dr. Abhinav Chandrachud, learned counsel for the applicants and Shri Ajay Patil, learned APP for the State.

3. The FIR is lodged by one Pushpalata Khandare on 28.11.2022. She has stated that she was knowing applicant No.1 since past many years. She had taken financial help from the informant to the tune of Rs.7 Lakhs in the year 2018 on the ground that her mother was not well and the money was needed for her treatment. At that time, applicant No.2 was present with applicant No.1. The informant asked for return of that money but it was never returned. However, out of Rs.7 Lakhs, they promised to give cheque for Rs.4 Lakhs and Rs.3 Lakhs in cash. The cheque was given, but, the cheque was dishonoured. Thus, no money was given. The amount of Rs.7 Lakhs was misappropriated. The informant pursued that matter with the applicants. At that time, applicant No.1 told her that applicant No.2 was in a position to get a room from Thane Municipal Corporation and that they would get two rooms for lesser price and from that transaction she could return Rs.7 Lakhs. The informant initially refused, but, just to get back her money she decided to go ahead with the transaction. At that time, the applicants showed documents in

respect of room No.504, building No.13/01 at Dharmaveer Nagar, Thane. They showed the original documents and told the informant that the room stood in the name of their relatives and those relatives would complete the transaction and that the informant will have to pay the registration fees. The price was quoted at Rs.30 Lakhs but by way of concession, they were willing to sell that room to the informant for Rs.25 Lakhs. They also took certain amounts in cash for giving to certain officers. Thus, both the applicants extracted Rs.10 Lakhs from the informant. Even thereafter applicant No.1 told her that she was in dire need of money and she was willing to sell her flat at Badlapur for Rs.30 Lakhs though the market price of the flat was Rs.40 Lakhs. On this inducement also the informant paid Rs.13 Lakhs to both the applicants. She was given keys of that flat. Thus, the applicants had taken Rs.30 Lakhs from the informant out of which an amount of Rs.1,66,500/- was returned and the balance amount of Rs.28,33,500/- was not returned. Subsequently, neither of the rooms or the flat was given to the informant. Based on these allegations, the FIR is lodged.

4. Learned counsel for the applicants submitted that the informant actually is in the illegal business of money lending and this transaction is nothing but money lending transaction. The applicants have already repaid the amount with interest and just to extract exorbitant amount from the applicants this false FIR is lodged.

5. He relied on the complaint made by applicant No.1 on 18.6.2020 to Senior Inspector of Police, Kalwa police station, Thane against the informant wherein there were allegations that the informant, in this case, had extended loan by way of money lending transaction. The informant was threatening and extracting more money from them.

6. Learned counsel further submitted that it is very easy to make false allegations but if a transaction in respect of the immovable property is entered into; there had to be some documents in the form of MOU or agreement, which is missing in this particular case.

7. Learned APP opposed this application. He submitted that both the applicants are involved in the offence. He submitted that there are two similar antecedents against applicant No.1.

8. I have considered the submissions. Learned APP has produced the investigation papers before me. During the investigation, the informant in this case has produced a copy of the letter dated 20.9.2019 purportedly issued by Thane Municipal Corporation in the name of Swapnali Tambitkar. According to the prosecution case, this letter is used by the applicants to purportedly sell the aforementioned room No.504 in building No.13/1. The investigation has revealed that this particular document is forged. The stamp and signature on this particular document are forged. The said room does not stand in the name of Swapnali Tambitkar also.

9. Thus, at this stage, the investigating agency has definite material against both the applicants. The applicants had given this particular document to the informant which is seized during investigation. Therefore, at this stage, the

informant's case does have some substance. Forgery of stamp and signature is a serious offence. Apart from that, at this stage, there is no reason to doubt the story of the first informant as she was put to losses of more than Rs.28 Lakhs.

10. There are antecedents against applicant no.1 of the similar nature. Applicant No.2's role is also mentioned in the FIR. He was present on all the occasions when the money was given to both the applicants.

11. In this view of the matter, custodial interrogation of the applicants is necessary. No case for grant of anticipatory bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)

Deshmane (PS)