

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

ANTICIPATORY BAIL APPLICATION NO. 313 OF 2022

1. Mr. Harrison Joseph D'Mello
2. Mrs. Keira Harrison D'Mello

.... Applicants

Versus

The State of Maharashtra

.... Respondent

Mr. Nitin S. Satpute for Applicants.
Ms. S. S. Kaushik, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 18th FEBRUARY 2022**

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.385 of 2021 registered at Khadakpada Police Station, on 18/12/2021, under sections 420, 406 and 507 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Nitin Satpute, learned counsel for the applicant and Ms. Kaushik, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Mohini Chaudhari. She was 70 years of age. She

was retired teacher. She was staying alone. She has stated that, in the year 2010-2011 she was residing in Gagangiri building at Khadakpada. The applicant No.2 named as Lucy D'Mello had started a shop in a room in that building, therefore, they got in touch with each other. She claimed to be a student of the informant and thus got close to the informant. The applicant No.1 is husband of the applicant No.2. He also started visiting informant's house. They were on good terms. The applicant No.1 told the informant that he had some acquaintances in the MHADA office and he was in a position to get a house for the informant at Malad, Bandra, Hiranandani and Sion for lesser amount. The informant's case is that, in March 2011, she gave Rs.4 lakhs in cash to the applicant in front of one Rani. In addition, she gave Rs.60000/- in cash for registration and Rs.60000/- more for some miscellaneous reasons. Thereafter the flat was not given, the amount was not returned and the applicant No.1, instead, threatened her. Thus, the informant was cheated to the tune of Rs.5,20,000/-. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicants submitted that the

alleged transaction was in between March 2011 and the F.I.R. is lodged on 18/12/2021 i.e. after more than 10 years. There is no writing or acknowledgment executed by the applicant showing receipt of Rs.5,20,00/-. The allegations are vague and motivated. The applicants' enemies have used the informant to pressurise the applicants.

5. Learned APP produced investigation papers before me, that contains statement of one Rani which is recorded U/s.161, as well as, U/s.164 of the Cr.p.c. Besides that, the informant's statement is also recorded U/s.164 of Cr.p.c. The said witness has supported the informant's case. Learned APP, therefore, contended that, there is sufficient corroboration to the informant's story. Considering that the informant is 70 years of age, the applicants' act cannot be ignored and their custodial interrogation is necessary.

6. I have considered these submissions. As rightly submitted by learned counsel for the applicants, the alleged transaction was from March 2011 and the F.I.R. is lodged after more than 10 years. No plausible explanation was offered. There is

no writing executed in favour of the informant showing that she has parted with Rs.5,20,000/-. The allegations are vague. The F.I.R. is lodged much belatedly. In this view of the matter, custodial interrogation of the applicants will not be justified. They can be directed to co-operate with the investigation.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.385 of 2021 registered at Khadakpada Police Station, 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.
- (ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)