

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1384 OF 2022

Alifiya Muffadal Kharawala @ .. Applicants
Alifiya Abbas Kapasi and anr
Versus
The State of Maharashtra & Anr .. Respondents

WITH
INTERIM APPLICATION NO. 1592 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 1384 OF 2022

Muffadal Zoeb Kharawala .. Applicants
Versus
The State of Maharashtra & Anr .. Respondents

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Mr. Aniket Gawand for the applicant.
Mr. S.S. Shirsath for intervener
Smt. Rutuja Ambekar, APP for the State.
Mr. H.A. Shaikh, API, Miraroad Police Station.

CORAM: BHARATI DANGRE, J.
DATED : 27th JUNE, 2022

P.C:-

1 By order dated 07/06/2022, the present applicants were directed to report to the police station and the learned APP

state that they had reported, accordingly. The voice sample of applicant no.1 as well as her mobile phone is seized.

2 The complainant is the husband of applicant no.1 and by reporting to the police station on 20/04/2022, he reported that on 26/01/2019 he gave an amount of Rs. 22,50,000/- to one Amar Rajpal, who happens to be his sister's husband and, when he demanded the money back, Amar Rajpal initially assured to repay the same and by buying some time, submitted that he had given the said amount to someone else. He alleged that the amount is given to applicant no.1 who had transferred it to applicant no.2.

3 The money was alleged to have been delivered in cash and the only evidence is some chat which are produced on record. The undated chats without certificate cannot form the evidence of delivery of the amount.

The learned counsel for the applicant has relied upon the writing of Amar Rajpal dated 27/06/2019 to the family that it is his responsibility to pay the money back within 60 days.

In any case, the discord is between the family, the applicant making an allegation that his sister's husband had given the money to him, which she accepted because she wanted to arrange her brother's education. However, till date the prosecution has not able to collect any material to show that the money was transferred from Amar Rajpal to the applicant no.1 and by her to applicant no.2. In any case, the learned APP state

that the custody is required to recover the money. I do not think that the investigating officer shall act as a recovery agent. But since her voice sample was taken and certain transcripts are on record the investigating officer shall ascertain whether she is the author of the said conversation. Subject to the stipulation that the applicants shall render their co-operation to the investigating officer, the applicants are entitled to their release. Hence the following order.

O R D E R

- (a) In the event of their arrest, the Applicants – Alifiya Muffadal Kharawala @ Alifiya Abbas Kapasi and Hasina Abbas Kapasi in connection with C.R.No.167 of 2022 registered with Mira Road Police Station shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(c) The applicants shall report to the Police Station on every Thursday between 10.00 am to 2.00 p.m, for a period of 3 weeks, and thereafter as and when directed.

4 Application disposed off.

(SMT. BHARATI DANGRE, J.)