

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

ANTICIPATORY BAIL APPLICATION NO.1719 OF 2018

1. Wasim Salim Quershi
2. Rashid Salim Quereshi

...Applicants

Versus

The State of Maharashtra and Anr.

...Respondents

....

Ms Chitra Salunkhe with Mr. Himalaya Chaudhari and Ms Krishna Sarkate
i/b. M/s. Salunkhe and Co. for the Applicants.

Ms A.A. Takalkar, APP for Respondent -State.

Mr. Vanekar, API, Chembur Police Station is present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th APRIL, 2022.

P.C.:-

1. This is an application under Section 438 of Cr.P.C. for pre-arrest bail in C.R. No.211 of 2018 registered with Chembur Police Station, Mumbai, for offences punishable under Sections 201, 395, 504 and 506 of the IPC.

2. Heard Ms Chitra Salunkhe, learned counsel for the Applicants and Ms A.A. Takalkar, learned APP for Respondent-State. Perused the records and considered the submissions advanced by the learned counsel from the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Mr. Masood Paevez Khandarkar. It is the case of the prosecution that on 30/06/2018 one Shajib Kumar and Shahabaj Ali had brought the Complainant and his friends Farhad Choudhary and Rahel Ahmad from Kolkata to Mumbai with an assurance to provide Visa for Canada. It is stated that the Applicant No.1, who was standing outside the office of Rajkumar Nursury abused him and after they entered the said office, Kamlesh and Salim Qureshi took away an amount of Rs.3,28,000/- and 5000 USD from his possession.

4. In the supplementary statement recorded on 07/07/2018 the Complainant has stated that in the FIR name of the Applicant Rashid was wrongly mentioned as Kamlesh. In the course of the investigation co-accused Kishor Hira and Shahbaz Ali were arrested and granted regular bail. Whereas Kamlesh was granted pre-arrest bail. By order dated 29/08/2018 this Court while granting interim relief to the Applicants had recorded the statement of the learned APP that an amount of Rs.3,28,000/- been has been recovered from the arrested accused and that an amount of Rs.3,50,000/- was to be recovered. Learned APP states that amount of Rs.3,50,000/- has not yet recovered. She further states that the prosecution has also not challenged the observation that the

essential ingredients of Section 395 of the IPC are not made out. Learned APP states that till date investigation is not completed. No satisfactory explanation is forthcoming for non completion of the investigation.

5. Applicants are on interim bail since 2018. Considering the nature of accusations and delay in investigation, in my considered view this is a fit case for pre-arrest bail. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicants in C.R. No.211 of 2018 registered with Chembur Police Station, Mumbai, the Applicants are ordered to be released on bail on executing PR bonds in the sum of Rs.20,000/- each with one or two sureties each to the like amount;
- (ii) The Applicants to report the investigating officer as and when required by the Investigating Officer;
- (iii) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)