

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

ANTICIPATORY BAIL APPLICATION NO. 3158 OF 2021

Shobha Manohar Gaikwad Applicant
Versus
The State of Maharashtra Respondent

Mr. A. M. Saraogi for Applicant.
Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.767 of 2021 registered at Charkop Police Station, Mumbai, on 08/12/2021, under sections 406 and 420 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Saraogi, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Reji Abraham. He has stated that, in the year 2012 the applicant showed her willingness to sale her room No.5, Sai Chawl, Bhabrekar Nagar, Kandivali (W). The informant agreed to

purchase that room. He paid Rs.15 lakhs and purchased that room. An Agreement for sale and Power of Attorney in that behalf were executed.

4. On 10/05/2015, tripartite agreement was entered into with the Developer. It was also signed by the informant and thereafter possession of that room was given to Shivraj Developers. The informant was thereafter given possession of another room. The informant had taken possession of that room on 23/01/2018. After all this, on 30/03/2021 the developer received a letter from the Deputy Collector mentioning that the applicant was not eligible to own the Room No.5 which was sold by the applicant to the informant. The applicant had made an application to transfer another room in the name of applicant's husband. Thus, the informant was deprived of his room and money. On this basis the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that, at the time when the transaction was entered into in the year 2012, the applicant had owned that room and there was no question of belief that she was not eligible to occupy or sell that particular

room. After about 6 years the issue was raised and it was held retrospectively that the applicant was not eligible to own that room. Shri. Saraogi submitted that the applicant could not have envisaged this situation in December 2012. He had sold the room to the informant with bonafide intentions.

6. Learned APP opposed this application. He submitted that the application is made by the applicant himself to the Deputy Collector for recording name of the applicant's husband in respect of Room No.38 which was another room and it was not the room which was sold to the informant. He, therefore, submitted that the applicant had knowingly deprived the informant of his rightful possession of the room.

7. I have considered these submissions. The transaction was of the year 2012. At that time, it appears that there was no issue about ownership of the room which was sold to the first informant. Even in the year 2015, when a tripartite agreement was executed, this issue was not raised. After about more than 8 years from 2012, this issue came up. Though there is some document purportedly signed by the applicant claiming ownership of another

room and not the room which was sold to the applicant, all this is about documentary evidence. In the background of this case, considering the fact that the applicant is a lady and at the time of transaction there was no issue of ownership in her name, at this stage, custodial interrogation of the applicant is not strictly necessary. She can be directed to attend the concerned police station and to co-operate with the investigation.

8. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R.No.767 of 2021 registered at Charkop Police Station, Mumbai, the applicant is directed to be released on bail on her furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) The Applicant 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.)