

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1170 OF 2019
WITH
CRIMINAL APPLICATION NO. 1102 OF 2019**

Mohammad Ramzan Shamsheer Khan and another ... Applicants

Versus

State of Maharashtra ... Respondent

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Mr. C.J. Joveson instructed by Ms. Pradnya Raibole for the Applicants in ABA-1170-2019.

Mr. P.H. Gaikwad Patil, APP for the State.

Mr. Ranjeet Patil for the Applicant in APP-1102-2019.

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CORAM : N.R. BORKAR, J.

DATED : 20 JANUARY 2023

P.C. :-

. This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicants are apprehending their arrest in Crime No. 45 of 2019 registered at Sangli City Police Station, for the offences punishable under Section 420 r/w. 34 of Indian Penal Code.

3. The allegations are of cheating. According to the complainant, the present applicants, who are in the business of tours and

travels accepted from him and other victims an amount of Rs.45,08,000/- as expenses towards flight tickets and visa formalities to arrange their pilgrimage tour to Umrah, however, they failed to fulfill their promise and thereby cheated them.

4. I have heard the learned Counsel for the applicants, the learned APP for the State and the learned Counsel for the intervenor.

5. On 27 February 2020, this Court passed the following order :

“1. Learned counsel for applicants, on instructions, submits that the applicants would appear before the Investigating Officer on 4th March 2020 at 12 noon and would tender explanation with regards to the transactions and the amounts received by them and transferred to Jehan International in connection with subject matter of the present FIR.

2. Learned advocate for applicants, on instructions, also submitted that the applicants would make an endeavour to refund the disputed amount. It is the contention of the applicants that substantial amount which was received from the complainant and others, which is subject matter of this complaint, was transferred to Jehan International. It is submitted that if it is found that the amount received from the aggrieved persons are not transferred to Jehan International, the said amount would be returned to the aggrieved persons.

3. Stand over to 11th March 2020. To be listed high on board on supplementary board. Interim relief granted earlier vide order dated 8th July 2019 is restored. Same shall continue till 11th March 2020.”

6. It appears from the above order that on instruction a statement was made that applicants would make an endeavour to refund the

disputed amount. It further appears that in view of the said statement, the interim order which was vacated by order dated 21 February 2020 was restored.

7. Thereafter, on 12th August 2021, this Court passed the following order :

“1 Learned counsel for the applicant in Anticipatory Bail Application No. 1170/2019 has tendered an affidavit of the applicant. The same is taken on record and a copy thereof is served on the learned A.P.P.

2 Learned A.P.P submits that as the learned counsel for the applicant has stated that affidavit will be filed stating how payments would be made, the Officer did not remain present. She submits that the affidavit filed by the applicant today is contrary to the statement made by the learned counsel for the applicant on the last date. She submits that the presence of the Investigating Officer would be hence necessary.

3 Stand over to 18th August 2021. Applicant to remain present in Court.

4 Interim relief granted earlier to continue till the next date. ”

8. It appears from the above order that the applicants made the statement before his Court that, they would file the affidavit stating that how payments would be made. However, it appears that applicants filed the affidavit contrary to their statement.

9. Today, the learned APP has tendered on record a photocopy of the Affidavit dated 18 August 2021, wherein the applicants have stated that they would deposit certain amount. The said affidavit is taken on record and marked ‘X’ for identification. The learned Counsel for the

applicants submits that though the copy of the said affidavit was served upon the learned APP, the same was not filed on record. Considering the overall conduct of the applicants, I am not inclined to grant anticipatory bail to them. In the result, the following order is passed :

- (i) Application is rejected.
- (ii) In view of the disposal of the anticipatory bail application, the application No.1102 of 2019 also stands disposed of.

(N.R. BORKAR, J.)