

Darshan Patil

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

ANTICIPATORY BAIL APPLICATION NO.749 OF 2022

DARSHANA ANKUSH GOLATKAR ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.2066 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.749 OF 2022**

PARIMAL K. VASTE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

**WITH
ANTICIPATORY BAIL APPLICATION NO.750 OF 2022**

CHANDRAKANT DINKAR KAMBLE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO.2049 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.750 OF 2022**

PARIMAL K. VASTE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA AND ANR. ..RESPONDENTS

Mr. Dilip Shinde for the applicants.

Mr. R. Sathyanarayanan a/w Pratik Surti, Prathamesh Naik
for intervener.

Mr. S.V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 6, 2023.

P.C. :

- 1.** Heard learned counsel for the applicants, learned counsel for the intervener and the learned APP for the State.
- 2.** This is an application for pre-arrest bail. The applicants are apprehending arrest in connection with C.R. No. 408 of 2021 registered with Kalachowki Police Station for the offence punishable under sections 420, 406 and 34 of the Indian Penal Code, 1860.
- 3.** It is the case of the informant that he was in need of a flat. The accused nos. 1 and 2 who are known to the informant assured him that present applicants will help him to get the flat. Accordingly, a consideration of Rs.35,00,000/- was agreed to be paid for the said flat. The informant had a flat which he sold for the purchase of the present flat. Accordingly, the purchaser of the informant's flat Mr. Viral Patel had paid a sum of Rs.2,00,000/- to each of the present applicants and a sum of Rs.6,00,000/- to the M/s. G.K. Infra which was managed by the present

applicants. Further, a sum of Rs.16,00,000/- was handed over in cash to the applicant no. 1. It is not in dispute that the sum of Rs.9,00,000/- was paid back by the applicants to the informant.

4. So far as the accused nos. 1 and 2 are concerned, they had filed an application for anticipatory bail bearing number 2949 of 2021. The accused nos. 1 and 2 were granted bail by the order dated 08/12/2021. The said order reads thus:-

“1] Applicants are seeking pre-arrest bail in C.R. No. 408/2021 registered with Kalachowki Police Station, Mumbai for Offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code.

2] It is not the case of the complainant himself that amount was given to applicants or it has gone to the account of applicants. Rather, applicants through counsel admit that amount of cash of Rs. 16 Lakhs as has been alleged in the F.I.R. was handed over to accused nos. 3 & 4.

3] In that view of the matter, case for grant of pre-arrest bail is made out.

(i) In the event of arrest of applicants in C.R. No. 408/2021 registered with Kalachowki Police Station, Mumbai for Offences punishable under Sections 406, 420 r/w 34 of the Indian Penal Code, they shall be released on bail on furnishing P.R. bond in the sum of Rs. 15,000/- each with one or more sureties in the like amount.

(ii) Applicants shall neither tamper with evidence nor influence the witnesses in any way.

(iii) Applicants shall attend the Investigating

Officer from 13/12/2016 to 16/12/2021 between 10.00 a.m. to 12.00 noon and thereafter, as and when directed.

4] Application stands disposed of.”

5. In the said order it has been mentioned that the amount of cash of Rs.16,00,000/- as alleged in the First Information Report (“FIR” for short) was handed over to the accused nos. 3 and 4 i.e. the present applicants. Learned counsel for the applicants submitted that it is purely a commercial transaction. Further, it is submitted that the flat which was allegedly sold by the informant never belonged to the informant and therefore, there is no question of the informant receiving any consideration from the sale of the flat. It is further submitted that the present FIR is only a counter blast to the demand which was made by the applicants against the complainant.

6. Having regard to the allegations in the FIR, it is seen that there is a categorical allegation that a sum of Rs.16,00,000/- was handed over apart from the other sums mentioned in the FIR. Admittedly, a sum of Rs.9,00,000/- has been returned by the applicants to the informant. I had called upon the applicants if they are willing to deposit the sum of Rs.16,00,000/- without prejudice. However, the

applicants are not willing to deposit the said sum as according to them the informant has come out with a false claim. Taking an overall view of the matter considering the nature of the allegations, this is not a fit case for granting pre-arrest bail to the applicants.

7. Application is rejected.

8. A request made for continuation of the ad interim relief is rejected.

(M. S. KARNIK, J.)