

AGK

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

ANTICIPATORY BAIL APPLICATION NO.1003 OF 2023

Priyanka Chandrakant Thakur

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

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Mr. Santosh S. Musale i/by Mr. Tanaji Solankar for the applicant.

Mr. Pandurang H. Gaikwad, APP for respondent No.1/ State.

Mr. Rahul Gaikwad with Mr. Aman Jhawar and Ms. Garima Joshi i/by Gravitas Legal for respondent No.2/ first informant.

A.D. Gije, API, Uran Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 6, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.217 of 2022 registered with Uran Police Station, Raigad for offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. According to prosecution, one Pushpa Bhadrakumar Savjani lodged a report alleging that she and her husband Bhadraumar Jamnadas Savjani are the owners of property bearing Survey

Nos.108/1/A, 71/6 and 69/4/A ad-measuring 16 acres. In 2022, it was revealed that Survey No.71/6 has been sold by sale deed dated 17 May 2022. Her deceased husband is one of the executant of the sale deed. Property was sold for consideration of Rs.34,75,000/-. The applicant is the person who alleged to have signed as a witness.

3. The applicant applied seeking anticipatory bail before the learned Sessions Judge which came to be rejected by order dated 30 December 2022. The applicant, therefore, filed present anticipatory bail application.

4. Learned advocate for the applicant submitted that the applicant is working as an employee with accused No.3. She had no knowledge of the transaction. She identified executant No.1, i.e. Bhadrakumar Jamnadas Savjani on the say of her employer, accused No.3. She has no antecedent to her discredit. She is not beneficiary of the transaction. She is protected by this Court. She has cooperated with the investigation. Offence is documentary in nature and, therefore, custodial interrogation of the applicant is not required.

5. Having heard learned advocate for the applicant, learned APP and learned advocate for the victim, it prima facie appears that the applicant has unambiguously stated in the identification column of the registered document. She identifies executant of sale deed. It is not in dispute that executant, Bhadrakumar expired in the year 2003. The document was executed on 17 May 2022. The applicant along with another witness certified that she knows

executor of the document and the executor of the document have signed the document. She has certified that the executant of the document is the same person. Since she identifies the executant, the signature appended to the document are of executant of the document. It is also stated that she has fully responsible for the identification of the executant. Therefore, prima facie case for the offences alleged against the applicant is made out.

6. In so far as the submission of custodial interrogation is concerned, the Apex Court in the case of **Sumitha Pradeep v. Arun Kumar C.K. & Another** reported in 2022 SCC OnLine SC 1529 was considering grant of bail to an accused charged with an offence under Protection of Children from Sexual Offences Act, 2012. The Apex Court, in paragraph 16, observed as under:

“16. ... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the *prima facie* case against the accused should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the *prima facie* case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by

itself, cannot be a ground to grant anticipatory bail.”

7. In that view of the matter, the applicant has failed to make out a prima facie case for grant of relief under Section 438 of the Criminal Procedure Code, 1973. The anticipatory bail application, therefore, stands rejected. No costs.

8. It is made clear that the observations made in the order dated 6 July 2023 are made only for the purposes of deciding application under Section 438 of the Criminal Procedure Code, 1973 and the Trial Court shall not be influenced by the observations while considering the bail application or while deciding the trial.

(AMIT BORKAR, J.)

This order is modified as per order dated 19 July 2023 to insert paragraph 8.