

Shiv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.936 OF 2023**

Raju Ramchandra Patil ...Applicant
vs.
State of Maharashtra ...Respondent

**WITH
INTERIM APPLICATION NO.1347 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO.936 OF 2022**

Kamal Sukur Kini ...Applicant
vs.
State of Maharashtra ...Respondent

Mr. G. T. Kanchanpurkar for the Applicant in ABA No.936/2023
Mr. Rajas APP for the Applicant in IA No.1347/2023.
Mr. H. J. Dedhia APP for the Respondent-State.

CORAM : S. M. MODAK, J.

DATED : 24TH APRIL 2023

P. C. :

INTERIM APPLICATION NO.1347 OF 2023

1. Heard learned Advocate Mr. Kanchanpurkar for the Applicant, learned Advocate for the first informant and learned APP for the Respondent-State.
2. On the complaint of the first informant the offence at C.R. No.12 of 2023, is registered at Mandavi police station, Palghar.

Now, the first informant wants to intervene. Intervention Application is allowed and is disposed of.

ANTICIPATORY BAIL APPLICATION NO.936 OF 2022

3. This Applicant was introduced by one Devendra Tumbda to the first informant. The first informant is one Kamal Sukur Keni, whose land is required for acquisition and there is dispute going on with her relatives. There are some occasions for her even to approach the Court including this Court. Accused No.1-Devendra Tumbda introduced present Applicant as an Advocate, who can represent her case. Earlier, she was represented by different Advocate.

4. On the insistence of arrested accused, the first informant has handed over brief to the present Applicant believing that the Applicant is a legal practitioner. On various occasions from April 2020 upto 22nd April 2021, she has parted away various amounts either by way of cash or cheque. It comes to Rs.5,00,000/-. According to the Applicant, in fact its total does not comes to Rs.5,00,000/-. Later on, the first informant realised that the Applicant is not an Advocate. She realised this on 9th October 2021, and she lodged FIR with Mandavi police station on 14th January

2023. It was registered under sections 170, 420 read with 34 of IPC.

5. According to the Applicant, the provisions of section 170 of IPC will not be applicable because the Advocate does not fall within meaning of the word “public servant”. The accused Devendra Tumbda got pre-arrest bail from the Sessions Court whereas the Applicant could not get it.

6. Various contentions are raised on behalf of the Applicant including lodging of FIR belatedly, filing of private complaint by the Applicant against the first informant for the offence punishable under sections 499, 500 of IPC, page 30, purchasing FORTUNER car by his brother on 30th March 2022 (its extract is produced) & whereas in the FIR, it mentions that on 16th June 2020, there was Advocate logo on the car. There is further contention that in fact the cheque issued in the name by his mother is not encashed because her account statement does not show corresponding entries.

7. Learned APP and learned Advocate for the first informant submitted that the Applicant has taken disadvantage of poorness of the first informant and custodial interrogation of the Applicant is justified.

8. Learned Advocate for the Applicant submitted that without

prejudice to the contentions and without admitting allegations, his client will deposit an amount of Rs.5,00,000/-. He has specifically stated that he is making this submission without taking instructions from the Applicant but he has taken instructions from the Advocate, who has represented the Applicant before the Sessions Court.

9. Learned APP submitted that let the Applicant show his bonafides. In view of that all contentions are kept open and let amount be deposited by the Applicant within two weeks.

10. Learned APP submitted that the Applicant has sent reply thereby denying the allegations in the complaint and after registration of the FIR on 14th January 2023, police tried to serve notice under section 41A of the Code of Criminal Procedure, however, the Applicant was not found on the address and there is station diary entry to that effect. Whereas according to learned Advocate for the Applicant no attempt is made to paste that notice. Prima facie, it seems that there was compliance but still the Applicant may agitate his point on the next date.

11. In view of above, the following order is passed :

O R D E R

(a) The Applicant-Raju Ramchandra Patil to deposit an amount of

Rs.5,00,000/- before the trial Court within a period of two weeks from today, subject to that in the event of arrest, the Applicant be released on bail on furnishing personal bond and surety bond of Rs.25,000/- in connection with C.R. No.12 of 2023, registered at Mandavi police station, Palghar, under sections 170, 420 read with 34 of IPC.

- (b) Learned Advocate for the first informant to take instructions about their stand about this amount, if at all deposited.
- (c) The Applicant shall not threaten the prosecution witnesses or allure them in any manner.
- (d) The Applicant shall give attendance to the Mandavi police station, Palghar on every Saturday from 10 am to 12 noon until further orders.
- (e) Needless to say, violating of the condition above will make the Applicant liable for cancellation of anticipatory bail, after notice to the Applicant.

12. Matter be kept on **12th June 2023**.

13. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]