

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 993 OF 2019**

1. Manjula Krishna Naik
2. Shakuntala Vasant Gaikwad
3. Anusaya Namdeo Gaikwad
4. Balaram Krishna Naik
5. Vikas Namdev Gaikwad
6. Samir Vasant Gaikwad

...Applicants

Versus

The State of Maharashtra and anr.

...Respondents

.....

Mr. Kuldeep Patil a/w Mrs. Shaili Dhuru for the Applicant.
Mr. P.H. Gaikwad Patil, APP for the State.
Ms Aishwarya Krishnan Lata for the Intervener.

.....

CORAM : N.R. BORKAR, J.
DATED : 27 FEBRUARY 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. 40 of 2018 registered at Nhava Shewa Police Station, Raigad for the offences punishable under Sections 420, 467, 468, 469, 471, 474, 120-B r/w 34 of the Indian Penal Code.

3. The allegations against the present applicant and other co-accused are of cheating and forgery. The complainant is one of the partners of partnership firms, namely, Kalydo Scope Space and Kallisto Space. The said firms are in real estate business. According to the complainant, in the year 2014, he got acquainted with co-accused Kalpesh Palan, who is real estate broker and he told him that plot owned by the co-accused Amit Dalvi is available for sale. It is alleged that complainant and his partners agreed to purchase the said plot for total consideration of Rs. 6.30 Crores. According to the complainant, certain documents were shown to them and they were made to believe that the said plot was allotted to the present applicants by CIDCO in view of acquisition of their land and the said co-accused Amit Dalvi had purchased it from them. According to the complainant, after execution of agreement and paying the amount of Rs. 4,32,58,000/- from time, they found that all the documents shown to them including allotment letter of CIDCO were forged and no such plot exist.

4. On 2 May 2019, this Court passed the following order:

“Issue notice. Learned APP waives service for respondent-State. In the meantime, learned counsel for applicants submits that applicants were protected by interim order passed by trial Court dated 1st March 2019 till their application came to be rejected on 20th April 2019. It is also contended that applicant nos.1 to 3 are senior citizen females and applicant nos.4 to 6 though named in FIR are their sons respectively and having not participated in sale transaction in any manner. In view of submission advanced as aforesaid and since applicants were initially protected by trial Court, following interim order is passed : -

ORDER

(i) In the event of arrest of applicants in C.R. No.40 of 2018 registered with Nhava Shewa Police Station, Raigad for the offences punishable under Sections 420, 467, 468, 469, 471, 474, 120B read with 34 of IPC, they shall be released on bail on their executing P.R. Bond in the sum of Rs.50,000/- each with one surety each in the like amount;

(ii) While on bail, applicants shall mark their presence with investigating officer for period of one week from 13th May 2019 between 10.00 a.m. to 2.00 p.m. and thereafter as and when called till the adjourned date;

(iii) Stand over to 13th June 2019.”

5. The learned counsel for the complainant/ intervenor submits that the complainant has no objection for release of the applicants on anticipatory bail as they have amicably settled the matter. Even otherwise, the allegations of forgery and cheating are against the co-accused- Kalpesh Palan and Amit Dalvi. Considering the overall facts and circumstances of the case, I am inclined to allow the present application. The interim order passed by this Court on 2 May 2019 is hereby confirmed.

6. Application is disposed of.

(N.R. BORKAR, J.)