

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

ANTICIPATORY BAIL APPLICATION NO. 1471 OF 2022

1. Ayesha Humera Ganfarali Khatib
2. Misbah Sayyed Massod Ali Khatib ..Applicants

v/s.

The State of Maharashtra . ..Respondents

**with
ANTICIPATORY BAIL APPLICATION NO. 1783 OF 2022**

Sayyed Massod Ali Khatib ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Ashok Tajane for the Applicants.
Mr. S.V.Gavand, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 3rd APRIL, 2023.**

P.C.

1. The Applicants seek pre-arrest bail in Crime No. 241 of 2022 registered with Sadar Bazaar Police Station, Solapur for offences under Section 420, 467, 468 r/w. 34 of the Indian Penal Code.

2. Heard Shri Tajane, learned Counsel for the Applicant, and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

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3. The aforesaid crime was registered pursuant to the FIR lodged by Vikas Srinivas Soni. The facts narrated in the FIR prima facie reveal that the Complainant was interested in purchasing a property. The Applicant Sayyed Massodali Gazanfarali Khatib (Accused No.1) informed him that he is the owner of Survey No. 148/1B/2B plot No.4, total admeasuring 1210.06 sq. meters at Village Khatif Nagar, Solapur (North). By deed of Sale dated 29.04.2014, the Complainant and his brother purchased the said land in two equal portions. The Complainant subsequently learnt that the Applicant Sayyed Massodali Khatib, had already sold the property to one Shehnaz Begum. Hence the FIR.

4. The records reveal that the Applicants Ayesha and Misbah, were consenting parties to the second sale deed dated 29.04.2014. They were not the parties to the previous sale deed, and prima facie there is no material on record to show that they had knowledge of execution of the previous sale deed.

5. As regards Applicant Sayyed Massod Ali Khatib, the records reveal that he was a signatory to the registered Sale Deed dated 15.01.2014, executed by him in favour of Shehnaz Begum. A perusal of the Sale Deed prima facie reveals that the Applicant Sayyed Masood Ali Khatib had received sale consideration of Rs.5,00,000/- from said Shehnaz Begum, and that he had put her in possession of the said

property. Having sold the property to Shehnaz Begum, the Applicant once again represented to the Complainant that he was the exclusive owner of the said property, and that he has not created any encumbrance on the said property, which is the subject matter of Sale Deed dated 15.01.2014. The Applicant Sayyed Masood Ali Khatib, executed a Sale Deed dated 29.04.2014, in favour of the first informant and his brother for total sale consideration of Rs.11,00,000/-.

6. The records prima facie reveal that the Applicant Sayyed Massod Ali Khatib had sold the property and received sale consideration from the Complainant in respect of the property which was already sold to Shehnaz Begum, by falsely representing that he is the sole and exclusive owner of the said property. The material on record prima facie discloses offence of cheating. Considering the above facts and circumstances, in my considered view, this would not be a fit case to exercise discretion under Section 438 of Cr.P.C. in favour of the Applicant Sayyad Massod Ali Khatib. Under the circumstances, Anticipatory Bail Application No. 1783 of 2022 is dismissed, and Application No. 1471 of 2022 is allowed on the following terms and conditions.

(i) In the event of arrest of the Applicants Ayesha Humera Ganfarali Khatib and Misbah Sayyed Massod Ali Khatib, in No.Crime No. 241 of 2022, registered with Sadar Bazaar Police Station, Solapur, the

Applicants be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand Only) each with one or two sureties in the like amount;

(ii) The Applicants shall report to the Investigating Officer for two days on 10th and 11th April, 2023 between 11.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer.

(iii) The Applicants shall keep the Investigating Officer informed of their current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) The Applicants shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)