

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

ANTICIPATORY BAIL APPLICATION NO.3347 OF 2022

1. Mr. Manish Ulhas Bhatkar
2. Mrs. Jyoti Manish Bhatkar ..Applicants
VS.
The State of Maharashtra ..Respondent

**WITH
INTERIM APPLICATION NO.4328 OF 2022
IN**

ANTICIPATORY BAIL APPLICATION NO.3347 OF 2022

Kajal Paresh Naik ..Applicant

IN THE MATTER BETWEEN

1. Mr. Manish Ulhas Bhatkar
2. Mrs. Jyoti Manish Bhatkar ..Applicants
VS.
The State of Maharashtra ..Respondent

Adv. Mandar P. Patil a/w Adv. Sunny V. Gangar for the Applicants.

Adv. Vinayak Patil for intervener/complainant.

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

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 22, 2023

P.C. :

1. Heard learned counsel for the applicants, learned counsel for the complainant and learned APP for the State.

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 406 and 420 of the

Indian Penal Code, 1860 and under Section 91 of Rights of Person with Disability Act, 2016 in connection with C.R. No.I-308 of 2022 dated 19/04/2022 registered with Navghar Police Station.

3. The issue revolves around a flat which was purchased by the complainant from the applicants on 27/01/2014 by a registered agreement of sale. The complainant alleged that the building was constructed on the basis of forged and fabricated documents. Prior to the sale of the flat in the year 2014, a notice regarding unauthorized construction was already issued by the Corporation on 18/01/2012. Sometime on 14/12/2012 the notice was challenged in this Court by the Society. The applicant No.1 was the Secretary of the Society. It is alleged by the complainant that knowing fully well that the building is unauthorized, without informing the said fact to the complainant, projecting that the applicant has a marketable title, the flat in question was sold to the complainant for a consideration of Rs.26,29,000/-.

4. Learned counsel for the applicants submitted that the

dispute essentially is of a civil nature. It is further submitted that there is a delay in filing the FIR as the complainant came to know of the forgery and fabrication as far back in October 2016. It is further submitted that the custodial interrogation in the present case is not required. Learned counsel further submitted that because the complainant now realized that she cannot pursue the civil remedies in view of limitation period which has expired, the complainant has resorted to the present tactics by filing the present FIR.

5. The applicant No.1 was the Secretary of the Society. The applicant No.1 was aware that a notice for demolition was issued by the Corporation and that proceedings were filed in this Court challenging the notice of demolition as far back on 14/12/2012. The applicants were aware that the building has come up on the basis of the forged and fabricated permissions and sanctions. The applicants sold the said flat to the complainant on January 2014 without informing her of the pending proceedings or that there was a notice of demolition issued in respect of the said flat. The complainant suffers from polio and she is a disabled person.

In the facts of present case merely because there is a delay in filing the FIR will not be a ground in favour of the applicant. The totality of the accusations have to be seen. The application of the applicant No.1-Manish Ulhas Bhatkar is rejected.

6. So far as the applicant No.2 is concerned, though she is the signatory of the agreement, the allegations are mainly against the applicant No.1 who was dealing with the complainant. The applicant No.2 is a woman. The application can be allowed in so far as the applicant No.2-Jyoti Manish Bhatkar is concerned.

7. Applicant No.1 has criminal antecedents of the similar nature under Sections 406 and 420 of the IPC registered vide C.R. No.184 of 2018 with Mahim Police Station. Hence, the following order :-

ORDER

- (a) The anticipatory bail application of the applicant No.1-Manish Ulhas Bhatkar is rejected.
- (b) The anticipatory bail application of the applicant No.2-Jyoti Manish Bhatkar is allowed. In the event of arrest in connection with C.R. No.I-308 of 2022 dated

19/04/2022 registered with Navghar Police Station, the applicant No.2-Jyoti Manish Bhatkar shall be released on bail on furnishing P.R. Bond to the extent of Rs.15,000/- with one or more sureties in the like amount.

(c) The applicant No.2 shall report to the investigating officer of the concerned police station on 02/03/2023 and 03/03/2023 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called.

(d) The applicant No.2 to co-operate with the Investigating Officer.

(e) The applicant No.2 shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.

(f) The applicant No.2 shall furnish the details of her residential address and phone number to the investigating officer.

8. The Anticipatory Bail Application stands disposed of.
The interim application also stands disposed of.

(M. S. KARNIK, J.)