

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

ANTICIPATORY BAIL APPLICATION NO.3405 OF 2022

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1. Bahauddin Ahmed Khot
2. Farida Bahauddin Khot ..Applicants
VS.
The State of Maharashtra ..Respondent

Mr. Imran Shaikh a/w Ruby Shaikh, for the Applicants.
Ms. P. N. Dabholkar, APP for the State.
Ms. Megha Manish Verma, API Oshiwara Police Station
present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 20, 2023

P.C. :

1. On 08/12/2022 while granting interim protection to the applicant, following order is passed.

"1. Heard learned counsel for the applicants and learned APP for the State.

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 419, 420, 465, 468 , 470 and 471 of the Indian Penal Code, 1860 in connection with C. R. No.1135 of 2022 dated 10/07/2022 registered with Oshiwara Police Station.

3. The complainant is the wife of applicant No.2's brother. The applicant No.1 and the complainant had applied for allotment of a flat through MHADA. Accordingly, a flat was allotted in the joint names of the applicant No.1 and Nilofar. Thereafter, the applicant No.2's brother and his wife Nilofar

(complainant) were residing in London. Certain matrimonial disputes arose between Nilofar and her husband. The matter is pending before the competent Court at London. The possession of the MHADA property was handed over in favour of the applicants in the year 2007 and since then they are residing in the said flat. The allegation in the complaint is that on the basis of the fabricated Power of Attorney, it is the applicant No.2 who affixed a photograph portraying herself as the complainant and got the flat transferred in the name of the applicant No.2. The complaint is filed almost after 15 years and that too when the matrimonial dispute arose between the complainant and her husband.

4. Learned APP submitted that the applicants did not report though they were called for recording their statements. A case for interim protection is made out. The applicants however must co-operate and report. Hence, the following order :-

ORDER

(i) In the event of arrest of the applicants-Bahauddin Ahmed Khot and Farida Bahauddin Khot in connection with C.R. No.1135 of 2022 registered with Oshiwara Police Station, the applicants shall be released on bail on their furnishing P.R. bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(ii) The applicants shall report to the Investigating Officer of the Oshiwara Police Station on 21st and 22nd December, 2022 between 11.00 a.m. and 1.00 p.m. and co-operate with the investigation.

(iii) The applicants shall furnish the details of their residential address and phone numbers to the investigating officer.

Stand over to 23/12/2022."

2. The applicants have thereafter co-operated. Their

signatures have been taken and all necessary documents have been produced by them. Considering the nature of the accusations, in my opinion, custodial interrogation of the applicants is not now required. I have already recorded that the complaint is filed almost 15 years after flat was transferred in the name of applicant no. 2 that too when the matrimonial dispute arose between the complainant and her husband. The case for confirming the interim protection is made out. The case is based on documentary evidence which is already in possession of the investigating officer. The custodial interrogation of the applicants is therefore not required. Hence, the following order.

ORDER

(a) In the event of arrest of the applicants-Bahauddin Ahmed Khot and Farida Bahauddin Khot in connection with C.R. No.1135 of 2022 registered with Oshiwara Police Station, the applicants shall be released on bail on their furnishing P.R. bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

(b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence;

(c) The applicants shall attend the concerned Police Station as and when called for.

3. . The anticipatory bail application is disposed of.

(M. S. KARNIK, J.)