

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

ANTICIPATORY BAIL APPLICATION NO.1078 OF 2024

1. Vrunda Arvind Rathi,
2. Sushma Balkrishna Kabra,
3. Deepak Jagannath Rathi,
4. Sujata Satish Mantri,
5. Archana Shrikumar Malani,
6. Shruti Sushant Laddha, &
7. Aditi Pranay Agarwal. Applicants
Versus
The State of Maharashtra Respondent

Mr. Ashok P. Mundargi, Senior Advocate i/b. Advait U. Shukla for
the Applicants.

Ms. Mahalakshmi Ganapathy, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th APRIL, 2024

PC. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.94/2024 registered at Sarkarwada Police Station, Nashik on 3.4.2024 under sections 420, 406, 409, 467, 468, 471, 120-B read with 34 of IPC.

2. Heard Mr. Ashok Mundargi, learned Senior Counsel for the Applicants and Ms. Mahalakshmi Ganapathy, learned APP for the Respondent-State.

3. Before entering into the merits of the matter, it is necessary to describe the interse relations between the Applicants vis-a-vis one Vijay Jagannath Rathi, who is already arrested and who is the main accused. The Applicant No.1 Vrunda Rathi, aged 67 years, is the sister-in-law i.e. Vijay's brother Arvind's wife. The Applicant No.2 Sushma Kabra, Aged 73 years, is the married sister of Vijay. The Applicant No.3 Deepak, aged 70 years, is Vijay's brother. The Applicant Nos.4 to 7 are all married daughters of Vijay Rathi. They are residing in different cities.

4. The FIR is lodged by Vijay Vedmutha. He has stated that he has factories at Sinnar and Satpur MIDC. He is a Partner along with other three partners in a Partnership Firm by the name Space Synergy. He is a Partner in that firm through is own firm Vedmutha Sons Reality Venture. He knew Vijay Rathi since childhood. They had family relations. In the year 2008 Vijay told him that they had a joint family property by the name Rathi Amrai

within the limits of Nashik Municipal Corporation at old Survey Nos.682/1a, 682/1b, 682/1c, 682/2/2 admeasuring 1 H 54 R. They wanted to develop that property. The informant had approached Vijay Rathi along with and other Partners. One Ramesh Dabeer was acting as an agent. The parties decided to enter into the transaction. The FIR mentions that the informant paid Rs.18 Crores upto 29.10.2015 from the year 2008. Apart from that, further amount for maintenance, security charges, loan processing charges etc. were also spent. Thus, in all the informant had given more than Rs.28 Crores between the year 2008 to 2017. The development agreement in that behalf was registered on 24.9.2012 between M/s. Space Synergy, as one party, and all the Applicants as well as Vijay Rathi and others as the other party. The supplementary deeds were also executed in the year 2013 and 2015. Subsequently, nothing further was done by the sellers i.e. Vijay Rathi and the present Applicants. Ultimately, the informant filed Special Civil Suit No.81/2017 in the Civil Court at Nashik. Said Court passed an order of maintaining *status quo* vide order dated 24.1.2023. In spite of this situation, Vijay Rathi entered into a joint venture agreement with one Deepak Builders

and Developers through Proprietor Deepak Chande on 11.6.2023. The MOU was a notarized document and Deepak had paid big amount in that transaction. Thus, it is case of the informant that he was cheated for the amount of more than Rs.28 Crores. He did not get the land and had lost his amount. On this basis, the FIR is lodged.

5. Learned Senior Counsel appearing for the informant submitted that the Applicants have not entered into any transaction or they have not signed any document subsequent to the MOU between the Applicants and the informant. The notarized MOU in favour of Deepak was signed only by Vijay Rathi in his individual capacity. The Applicants had neither consented to such transaction nor had signed any documents. In fact, the Applicant No.1's husband had filed a partition suit of the joint family property.

6. Learned Senior Counsel submitted that in aforesaid suit, the informant had made an application to be added as one of the Defendants. However, his prayer was rejected. He submitted that from the history it is quite apparent that it is a civil dispute.

He submitted that in this background the Applicants' custodial interrogation is not necessary.

7. Learned APP opposed these submissions. She submitted that the amount of more than Rs.28 Crores was paid and spent by the informant, from which all the Applicants have benefited. That amount is misappropriated and, therefore, the offence assumes seriousness. The Applicants, therefore, do not deserve the protection under Section 438 of Cr.P.C.

8. I have considered these submissions. Learned APP has produced the original joint venture agreement between Vijay Rathi and Deepak Builders And Developers, which is the main bone of contention in this case before the Court. Said agreement is dated 11.6.2023. Significantly, that joint venture agreement dated 11.6.2023 is signed only by Vijay Rathi as the party No.1 and by Deepak Chande as the party No.2. The present Applicants are neither parties to this agreement nor they have signed in any other capacity as well. The informant has already filed a civil suit in the year 2017, wherein the *status quo* order was passed. The MOU

between Vijay and Deepak Chande was executed in June, 2023. After all this, the FIR is lodged in April, 2024.

9. I find force in the submissions of learned Senior Counsel that at the highest it could be a civil dispute for which the informant has already approached the competent civil Court in the year 2017 itself as far as the present Applicants are concerned. The joint venture agreement between Vijay and Deepak Chande is a totally independent document, with which the Applicants do not have any concern whatsoever. Therefore, the Applicants cannot be held responsible for the acts committed by Vijay Rathi. It cannot be said that by the joint venture agreement between Vijay Rathi and Deepak Chande, the Applicants were to be benefited in any manner. Their role is restricted to the earlier agreement with the informant executed and registered in the year 2012.

10. As mentioned earlier, the Applicant Nos.1, 2 and 3 are senior citizens. The Applicant Nos.2 & 3 have crossed 70 years of age. The Applicant No.1 is 67 years of age. The other Applicants are the married daughters of Vijay Rathi. In this background, their custodial interrogation in the present subject matter is not

necessary. If necessary, the investigating agency can make inquiries with them. They will have to cooperate with the investigation.

11. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.94/2024 registered at Sarkarwada Police Station, Nashik, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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