

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

ANTICIPATORY BAIL APPLICATION NO. 1236 OF 2024

1. Santosh Chandrakant Sonawane,	
2. Trupti Santosh Sonawane	..Applicants
Versus	
The State of Maharashtra	..Respondent

Mr. Satyaram R. Gaud for Applicants.
Ms. Mahalakshmi Ganapathy, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 6 MAY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.170 of 2019 registered at Trombay Police Station, Mumbai, on 30.05.2019, under sections 420 and 409 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Satyaram Gaud, learned counsel for the applicants and Ms. Mahalakshmi Ganapathy, learned APP for the State.

3. The F.I.R. is lodged by one Suresh Nandire. The Applicant No.2 is the daughter of the main accused Madhukar

Kamble and the applicant No.1 is applicant No.2's husband. The F.I.R. mentions that, Madhukar Kamble was the Promoter of Mahatma Jyotiba Phule Co-operative Housing Society. Madhukar told the informant that, he was in a position to give rooms at Rs.9 lakhs in their society. The informant was interested. He wanted to purchase a room. His sister was also wanted to purchase a room. The accused Madhukar quoted price of Rs.9 lakhs for each of the rooms. The F.I.R. mentions that the informant paid Rs.9 lakhs in all for his room and his sister also paid substantial amount for purchasing the room. After that, no room was given to either of them. When the informant demanded refund of their money, it was also not refunded. On this basis the F.I.R. was lodged. The investigation was carried out and the charge-sheet is already filed.

4. There are 19 accused mentioned in the charge-sheet. The applicant No.1 is shown as the accused No.14 and the applicant No.2 is shown as the accused No.13. The investigation has revealed that the informant's case was not an isolated case. The accused Madhukar was authorized by the Government of Maharashtra vide the G.R. dated 07.10.2006 to transfer 1182

rooms. The price was fixed at Rs.2 lakhs. The main accused Madhukar had transferred 1128 rooms, but 58 victims had suffered. They did not get the rooms and they lost their money. The accused Madhukar had misappropriated the amount to the tune of Rs.1,89,79,975/-. The accused Nos.1 to 6 were charged U/s.420 and 409 r/w. 34 of the I.P.C. and the others including the present applicants were charged U/s.420 r/w. 34 of the I.P.C. in the charge-sheet.

5. Learned counsel for the applicants submitted that, there are no allegations against the present applicants either in the F.I.R. or in the statements of the other victims; except in the statement given by one Sarika Lakeshri. The main accused Madhukar was granted anticipatory bail way back in the year 2021. Compared to him, both these applicants' role is much lesser, in fact, there is hardly any evidence against them. The entire charge-sheet does not reveal any monetary gain acquired by either of these applicants individually or personally. He submitted that the investigation is over and the charge-sheet is filed. The trial is going on. Therefore, at this stage, custodial interrogation of both

these applicants is not necessary. He submitted that, because of the apprehension of being arrested the applicants did not attend the trial court and, therefore, Non Bailable Warrants were issued against both of them. At this stage, learned counsel is praying for anticipatory bail in connection with the said offence. The applicants would approach the trial Court for getting the non bailable warrants set aside by remaining present.

6. Learned APP submitted that the main accused Madhukar is granted anticipatory bail as informed by the learned counsel for the applicants. She submitted that the statement of Sarika Lakeshri mentions role of the present applicants. That statement may be considered. She concedes that, there is no mention of the applicants' name in any of the other statements.

7. I have considered these submissions. I have perused the statement of Sarika Lakeshri dated 21.08.2019. In that statement also the main allegations are against Madhukar. There is a general statement that on the occasion of meeting of this witness and 11 others, the present applicants were present and they had

also assured that, those 12 persons i.e. Sarika Lakeshri and 11 others would get the rooms as promised by Madhukar. The amount was given to Madhukar. There is a reference that Madhukar had executed a document wherein it was mentioned that, if anything happened to him, the applicant No.2 Trupti would reimburse the loss suffered by those 12 persons.

Thus, it can be seen that the roles attributed to both these applicants is much lesser than the main accused Madhukar. All the other victims have named Madhukar and others, but not the present applicants. There are 58 victims. Madhukar is already granted anticipatory bail. Therefore, on the ground of parity, both the applicants, who have played much lesser role and there is weaker material against them, deserve the same protection.

8. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.170 of 2019 registered at Trombay Police Station, Mumbai, the applicants are directed to be released on bail on their executing P. R. bonds

in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

- ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)