

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

ANTICIPATORY BAIL APPLICATION NO.1103 OF 2024

Guddu Maheebub Shaikh
versus
The State of Maharashtra

.... Applicant
.... Respondent

.....

- Mr. Sharad Goswami, Advocate for Applicant.
- Ms. Poonam P. Bhosale, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd APRIL, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.239/2023, dated 27/08/2023, registered with Vishrantwadi Police Station, Pune City, under sections 406, 420 r/w 34 of the Indian Penal Code.
2. Heard Mr. Sharad Goswami, learned counsel for the Applicant and Ms. Poonam P. Bhosale, learned APP for the State.
3. The FIR is lodged by one Chhaya Thorat. She has stated that she had lost her husband in the year 2005. She herself was suffering from health issues. She had gone to a

Hospital, where she met the accused Vikas Waghmare. He was practicing in Ayurvedic medicine. Since the informant was regularly visiting that hospital, there used to frequent interaction with Vikas. He told the informant that he would get some scholarship for the informant's son. For that purpose, he took Rs.40,000/- from the informant. But nothing was done and she lost that money. The main allegations in the FIR are that the informant was told by the accused Vikas that he knew the present Applicant, who would purchase her house for Rs.15 lakhs. The allegations are that the informant accepted that proposal. It was decided that Rs.9,20,000/- was to be shown as the purchase price and the remaining amount of Rs.5,80,000/- would be paid by the Applicant in cash. There are allegations that the informant was given a cheque, but the accused Vikas on some pretext took two blank cheques from her and withdrew that amount. The agreement was registered. At that time, the informant had asked Vikas whether the purchase money was paid by the Applicant to him. At that time, the accused Vikas told her that he had received the entire amount and therefore, believing him, the informant signed the MOU and registered it.

However, the amount was not given to her and in December 2012, the Applicant made her vacate that flat. When the informant questioned her about the payment, the Applicant told that that she should enquire about that with the accused Vikas.

4. The informant was a widow. She lost her son as well in 2019. She went in depression. Subsequently, she was in a difficult financial state and therefore, she decided to pursue this matter. Accordingly, she filed this FIR.

5. Learned counsel for the Applicant submitted that there is inordinate delay in lodging the FIR. The transaction was from the year 2012 and the FIR is lodged at least after 12 long years. That delay is not satisfactorily explained. He submitted that there is a bank transaction entry showing that the amount was paid to the informant and in the agreement also there is a reference that the informant had received the amount of Rs.9,20,000/-. He referred to that amount which is mentioned on page No.48 of this memo.

6. Learned APP opposed these submissions. She

submitted that according to the investigation, it is revealed that the informant herself has not received anything in her bank account except the amount of Rs.3,00,000/-. The said amount was also withdrawn by the co-accused Vikas. Therefore, practically she has not received any amount and she has lost her house also. She has lost her husband and she has lost her son. Therefore, it is necessary that she pursues this FIR. There is no malafide intention in lodging this FIR to extract more amount from the Applicant. Learned APP pointed out that there are three antecedents against the Applicant.

7. Learned counsel for the Applicant without prejudice to his rights and contentions submitted that the Applicant is willing to consider possibility of settlement if the informant is heard in this situation.
8. Considering this situation and the suggestion made by the learned counsel for the Applicant, it is necessary to hear the first informant. In the meantime, the Applicant can be protected by way of ad-interim relief based on these submissions.

9. Hence, the following order :

ORDER

- (i) Leave to amend to add the first informant as a party Respondent No.2. Amendment to be carried out forthwith.
- (ii) Issue notice to the added Respondent No.2 returnable on 20/06/2024.
- (iii) In the event of his arrest in connection with C.R.No.239/2023, dated 27/08/2023, registered with Vishrantwadi Police Station, Pune City, till the next date, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (iv) This order shall operate till 20/06/2024.
- (v) All contentions on merits of the matter are left open.
- (vi) Stand over to 20/06/2024.

(SARANG V. KOTWAL, J.)