

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2167 OF 2024

1. Yasmin Sadiq Shaikh
2. Raj Laxman Adhav alias Narsu ... Applicants
Vs.
State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.2248 OF 2024

Mohammad Sadiq Abdul Majeed Shaikh ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.2247 OF 2024

1. Ehtesham Sadiq Shaikh
2. Ammar Sadiq Shaikh ... Applicants
Vs.
State of Maharashtra ... Respondent

Mr. Satyam Harshad Nimbalkar a/w. Mr. Harshwardhan Pawar and Mr. Umesh Tare for Applicants in ABA/2167/2024.

Mr. Aabad Ponda, Senior Advocate i/b. Mr. Yash Saxena for Applicant in ABA/2248/2024.

Mr. Harshad Nimbalkar, Senior Advocate i/b. Mr. Abhishek Arote for Applicants in ABA/2247/2024.

Mr. Sagar R. Agarkar, APP for Respondent-State in all ABAs.

Ms. Sada Khatoon Shaikh a/w. Mr. Y. G. Thorat and Mr. H. M. Khupsase for Intervenor / Informant in all ABAs.

Ms. Kalyani Padole, API, EOW, Pune

CORAM : MANISH PITALE, J.

DATE : AUGUST 27, 2024

P.C. :

. These applications are moved by applicants, who have been arraigned as accused persons in FIR No.0396 of 2024 dated 12.04.2024, registered with Kondhwa Police Station, District - Pune City, for

offences under Sections 323, 406, 420, 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

2. The statement of the informant leading to registration of the FIR indicates that according to him, the applicants have committed the said offences by inducing him into executing *Hibanamas* in respect of specific immovable properties and also inducing him into parting with substantial amounts of money in the backdrop of the informant being in a disturbed state of mind due to his matrimonial disputes with his first wife and the children from the said wife. According to the informant, he realized with passage of time that the applicants were further indulging in activities that indicated their real intentions and in that backdrop, the informant was constrained to approach the police for registration of the FIR.

3. The learned senior counsel appearing for the applicants referred to documents on record to indicate that the informant himself had approached the accused persons to find a solution for a situation in which the informant found himself in the backdrop of serious and acrimonious disputes between the informant, his first wife and the children from the said wife. Reference was made to the proceedings filed against the applicant by his first wife under the provisions of the Protection of Women from Domestic Violence Act, 2005 (Act of 2005), the stand taken by the informant therein and the fact that in affidavits, the informant had taken a stand that the *Hibanamas* were validly executed and that the properties actually stood transferred to the applicants. Reference was also made to certain civil proceedings pending between the parties and the endeavor was to demonstrate that civil disputes were sought to be given the colour of criminality, only to arm-twist the applicants.

4. The learned APP referred to the supplementary statements of the

informant indicating that deeds of settlement were executed between the informant on the one hand and some of the applicants on the other, in February 2024, pertaining to certain amounts agreed to be returned to the informant and also regarding gold. In fact, in Anticipatory Bail Application No.2248 of 2024 at exhibits - NN and OO, the applicants have placed copies of the said deeds of settlement. It is submitted that the *Hibanamas* were executed some time in the year 2018-19 and a grievance is sought to be made in the year 2024 with regard to the same.

5. The learned counsel appearing for the informant referred to certain documents on record in order to contend that the applicants had always interacted with the informant with devious intention and that the material on record sufficiently makes out the ingredients of the offences in question. It is submitted that even during the pendency of the proceedings before the Sessions Court, hollow promises were made for settling the disputes, but no steps were taken by the applicants to resolve the disputes.

6. In the backdrop of the aforesaid submissions and the material available on record, this Court is inclined to grant interim relief to the applicants for the following reasons:-

- a. The tenor of the grievances of the informant, when appreciated in the backdrop of the documentary material placed on record, *prima facie*, indicates a civil dispute between the parties. It appears that the informant does not want the applicants to act upon the *Hibanamas*, which appear to have been executed in peculiar circumstances by the informant;
- b. The statements made on affidavit in proceedings before the Competent Court, particularly the proceeding initiated by the

first wife of the informant under the provisions of the Act of 2005, indicate that the informant himself has taken a stand vouching for the validity of the *Hibanamas* executed in favour of the applicants. It appears that the informant has continued to remain in possession of the properties that are subject matter of the *Hibanamas* and this factor also needs to be taken into consideration;

- c. It appears that before the FIR was registered, in the light of civil proceedings initiated by some of the applicants against the informant and discussions that may have been undertaken in that backdrop, in February 2024, at least two deeds of settlement were executed between the parties, one regarding the obligation of the applicants to return certain amounts and the other pertaining to gold. The supplementary statements of the informant indicate that such deeds of settlement were indeed executed. It is also conceded that part of the amount was received and some amount remained as balance. These factors further bolster the submission made on behalf of the applicants that a civil dispute that can be settled by constructive approach of the rival parties is unnecessarily being given the colour of criminality;
- d. The real concern of the informant is that the original documents including *Hibanamas* are still in possession of the applicants, on the strength of which, the applicants can deal with these properties in question. A specific statement is made on behalf of the applicants that they are ready to produce such original documents before the investigating officer. A further undertaking is given that the applicants will not be dealing with and / or creating third party rights in

respect of properties that form subject matter of the said *Hibanamas*. This sufficiently addresses the main concern expressed on behalf of the informant.

7. For the aforesaid reasons, the following interim order is passed:-
 - A. Till the next date, in the event the applicants are arrested in connection with FIR No.0396 of 2024 dated 12.04.2024, registered with Kondhwa Police Station, District - Pune City, they shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] each with one or two sureties in the like amount;
 - B. The applicants shall appear before the investigating officer on 29.08.2024 and 30.08.2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the investigating officer;
 - C. The applicants shall co-operate with the investigation, including producing the above indicated original documents and other documents that the investigating officer may demand, which are in possession of the applicants;
 - D. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.
8. Needless to say, violation of any of the aforesaid conditions may result in this order being recalled.
9. List the applications for further consideration on 03.10.2024, H.O.B.

(MANISH PITALE, J.)