

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.744 OF 2025

Ansari Zaid Yasir And Anr ...Applicants
Vs
The State Of Maharashtra ...Respondent

Mr. Sharikh M. Khan, advocate for the applicant.

Mr. Avinsah A. Naik, APP for the State.

Adv. Mateen Shaik a/w. Adv. Muskan Shaikh, Adv. U. Ahmad, Advocate
for the respondent no.2.

CORAM : RAJESH S. PATIL, J.

DATED : 29 APRIL 2025

P.C.:

1. On 18 March 2025 following order was passed :

1. The present applicants have filed these anticipatory bail application apprehend their arrest in C.R. No.61/2025 for the offences punishable under Section 420, 465, 467, 468, 471 and 448 of the Indian Penal Code.

2. It is the case of the applicants that the mother of the applicant no. 2 was the tenant of the Municipal Corporation for the subject premises. Applicant no. 2's mother died on 14 February 2014. The first informant is claiming to be a tenant of the subject premises which he has been purchased from Ms. Aasma Ilyas Merchant and it has also been said that the said Ms. Aasma Merchant had taken over the rights of the subject premises from the mother of applicant no. 2. The applicants submit that surprisingly, the date mentioned of the applicant no. 2's mother selling her rights to said Ms. Aasma Merchant is after the death of her mother. Therefore,

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the applicants submit that fraud has been committed by the first informant and the applicants have filed complaint to that effect on 31 December, 2016. The applicants further submits that the police has not taken any cognizance of the complaint filed by the applicants on 31 December 2026. The applicants seek a liberty to add the first informant as party respondent no.2. They submit that during the pendency of the pre-arrest bail application before the Sessions Court, protection was granted to the applicants.

3. Liberty granted as prayed for. Amendment to be carried out forthwith. If the amendment is not carried out forthwith, the anticipatory bail application will stand rejected without further reference to this Court.

4. APP to serve a copy of the anticipatory bail application upon the newly added respondent no.2 through the investigating officer.

5. Issue notice to newly added respondent no. 2 returnable on 1 April 2025. Apart from Court notice, advocate for the applicant is permitted to serve the respondent no.2 by advocate's private notice by all permissible modes of service and file affidavit of service to that effect before the next date of the hearing.

6. Stand over to 1 April 2025 under the caption "for urgent circulation."

7. For the submissions made on behalf of the applicants and the fact that the applicant no. 2 is a doctor by profession and it is claimed that there was miss-carriage of applicant no. 2, on 4 March 2024, no coercive steps be taken against the applicant till the next date of hearing. However, the investigating officer is permitted to go ahead with the investigation.

8. The applicants are permitted to file a compilation of documents before the next date of hearing which would include the copy of Annexure-II and other relevant documents, and the copy of the same will be served upon the learned APP and the newly added respondent no.2.

2. The learned advocate for the applicants has shown me an

electricity bill attached to the compilation of documents at page 14, which is Reliance Energy bill dated 16 November 2009. The said bill is in the name of Rakesh Kumar Mishra. At page 20, there is another Reliance Energy bill dated 17 January 2014 in the name of Hamida Abdul Wahid Baig, the mother of applicant no. 2. Therefore, the case of the applicants, that they have a legal right in the subject premises as the mother of applicant no. 2 had purchased the property from Rakesh Kumar Mishra, appears to have some basis. The mother of applicant no. 2, passed away on 17 April 2014.

3. The learned APP submits that the custody of the present applicants would not be necessary if they are willing to cooperate with the investigating officer. For interrogation purpose, the specimen signatures of applicant nos. 1 and 2 would be required for verification. In my view, once the signatures of applicant nos. 1 and 2 are obtained, they should be verified with the alleged sale deed dated 11 May 2022. The key question would be whether, after the death of the mother of applicant no. 2, her father, who is currently untraceable, executed any affidavit or agreement with a woman named Asma Merchant, concerning the sale of the subject property. According to the complaint, Asma Merchant in turn executed an affidavit in 2016 to sell the property to one Amrin Mandai.

4. The case of the complainant stands on a completely different

footing, asserting that Amrin Mandai was outside the country on 11 May 2022 and therefore could not have executed any agreement with applicant no. 2, Ansari Firdous Zaid Yasir. On the other hand, the applicants claim that the signature of applicant no. 2 does not appear on the sale deed dated 11 May 2022, and that applicant no. 2, Ansari Firdous Zaid Yasir, is the lawful owner of the subject premises, having inherited it from her mother, Hamida.

5. In my opinion, evidence needs to be led, as the FIR involves documents requiring, signature verification. I have been informed that applicant no. 2 is a doctor by profession and suffered a miscarriage on 4 March 2024. Applicant no. 1 is her husband. In light of the above, I am of the view that, as of today, the custodial interrogation of the applicants is not necessary. Therefore, the anticipatory bail application deserves to be allowed with the following directions:

ORDER

- (a) The anticipatory bail application is allowed
- (b) In the event of arrest of the Applicants, C.R. No.61/2025 for the offences punishable under Section 420, 465, 467, 468, 471 and 448 of the Indian Penal Code., the Applicants shall be released on bail furnishing P.R. bond to the extent of Rs.30,000/- each with one or more sureties of the like amount.

(c) The applicants shall cooperate with the investigation and shall attend the office of the investigating officer at the concerned police station on 5 May 2025 and 6 May 2025 between 11:00 a.m. and 1:00 p.m., for the purpose of providing their specimen signatures and recording their statements, if required by the investigating officer, and thereafter as and when called.

(d) The Applicants shall not directly or indirectly make any inducement, threat or promise to victim and to any person acquainted with facts of case so as to dissuade him/her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) The Applicants shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) The Applicants and his surety shall provide their respective mobile numbers, e-mail address and documents pertaining to the place of residence.

5. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the

observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

6. In view of the above, the present Anticipatory Bail Applications are disposed of.

(RAJESH S. PATIL, J.)