IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 857/2025

PRAKASH KUMAR ..APPLICANT
VS
THE STATE OF MAHARASHTRA & ANR ..RESPONDENTS

WITH
ANTICIPATORY BAIL APPLICATION NO. 859/2025

RINKI PRAKASH KUMAR ..APPLICANT
VS.
STATE OF MAHARASHTRA & ANR ..RESPONDENTS

Adv. Murtuza Najmi a/w. Adv. Dilip Shukla, Adv. Arif Bhati for applicants.

Ms. Supriya Kak, A.P.P. for the State.

Adv. Kunal D. Ambulkar for the Complainant.

Mr. Prashant Vasantrao Patil, P.S.I., Worli Police Station present.

CORAM : RAJESH S. PATIL, J.

RESERVED ON : 16th APRIL, 2025

PRONOUNCED ON : 22nd APRIL, 2025

ORDER :-

These applications are filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 0057/2025 dated 18th February, 2025 registered with Worli

Police Station for the offence punishable under Sections 3(5), 316(2) and 318(4) of the Bharatiya Nyaya Sanhita, 2023.

2. Based on the complaint, an FIR has been filed. The role of the present applicants have been mentioned in the FIR.

3. It is submitted on behalf of the applicants that in the FIR, certain important events have been suppressed by the complainant. After April 2019, the complainant has straight away jumped to the event of 4th March, 2024. What happened in between, almost for five years, has not been mentioned in the FIR. In the FIR, there is no denial that a loan of around Rs.90 lacs approximately was obtained by the complainant and the said loan of approximately Rs. 90 lacs was paid to Indiabulls Housing Finance Limited. There is reference for agreement for sale dated 16th April, 2019 whereby the complainant sold her subject flat to the present applicants.

4. It is further stated in the FIR that once the loan is sanctioned to the applicants, they will immediately pay back the balance amount of consideration of the subject flat to the complainant. It is also admitted that a sum of Rs. 25 lacs was paid to the complainant.

5. It is further submitted that a sum of Rs.24 lacs was paid towards the stamp duty and Rs.30,000/- was paid towards registration of

agreement for sale dated 16th April, 2019. Further, a sum of Rs.1 crore was paid to the complainant from the year 2019 to 21st August, 2021. However, the FIR does not disclose the payment received by the complainant. There is also no mention in the FIR that a sum of Rs.90 lacs was paid towards the loan of Indiabulls Housing Finance Limited which was taken by the complainant. So also, there are no steps taken for reversion of contract.

6. Further, there is a leave and licence agreement executed, the monies towards the said transaction has been paid to the complainant. Though, the claim of the complainant is that she had mental illness, therefore, the applicants have taken advantage and have cheated the complainant. This is a pure civil transaction whereby there are allegations made by the parties against each other. There is no criminality involved and therefore the custody of the present applicants is not necessary. There are no criminal antecedents against the present applicants.

7. The learned A.P.P. submits that the complainant was mentally sick. She was in financial difficulties. Therefore, she was introduced by one person called as Mr.Sunil Kadam to the applicant no.1. The present applicants took advantage of the situation of the complainant

and played fraud upon her by first diverting monies to her so called bank account with the Bank of Maharashtra and thereafter the whole amount was transferred in the account of the applicants and/or their firms. The leave and licence agreement is totally a bogus document. The same has been confirmed by the Notary whose signature and rubber stamp has been shown by the present applicants on the said document.

8. The said Mr. Sunil Kadam who introduced the complainant to the applicants is also a fraudster. There are atleast six cases pending against the present applicants in the Debts Recovery Tribunal. The custody of the present applicants would be necessary in order to unearth the *modus operandi* of the said applicants.

9. I have heard the learned counsel for both the sides. With their help, I have gone through the documents on record.

10. From the records which have been shown to me, it appears that the present applicants have shown a sum of Rs.2,10,53,150/- was transferred in the bank account of the complainant in Bank of Maharashtra. The complainant has denied that she has any kind of account with the Bank of Maharashtra. However, the complainant has said that she has signed certain documents which were handed over to

her by the applicants. It has been shown that after the amount has been transferred in the account of Bank of Maharashtra (alleged account of the complainant), the amounts have been transferred immediately in the bank account of the applicants or their firms. In the anticipatory bail application, at paragraph no.6 (x), the case of the applicants is that the transaction of the amount of Rs.1,95,10,500/- is by way of an friendly loan to the applicant no.2. This fact itself is surprising to me, because the complainant is a lady who was in dire need of money since she had no source of income and she was physically and mentally ill and if it is believed that she is able to transact with the applicants and applicants are paying her Rs.2,10,00,000/-, why would she give the applicant no.2 a friendly loan of Rs.1,95,10,500/- ?

11. Further, it is also been stated that an amount of total Rs.1,27,00,000/- has been transferred from the applicants' account to various firms. After going through the said document, I find that these amounts are towards some separate transactions. The identity of the said firm is to be investigated by the police authority.

12. As per the admitted case, the complainant has obtained a loan from Indiabulls Housing Finance Limited. While the loan was still not

cleared, the present applicants, on the basis of the agreement for sale dated 16th April, 2019, obtained a loan from the State Bank of India. The original documents of the flat was lying with Indiabulls Housing Finance Limited. Without the permission or intervention of the complainant, the entire original documents from Indiabulls Housing Finance Limited have been transferred to the State Bank of India. In my view in any loan transaction pertaining to a flat situated in a housing society, there is a need of a document which is known as a 'No Objection Certificate of the Housing Society'. In the present proceedings, the housing society by its letter dated 31st March, 2025 addressed to the police, have clarified that they have not issued any kind of 'No Objection Certificate'.

13. A theory of 'Leave and Licence' has been put-forth by the applicants. The said document is claimed to be signed by both the parties in front of a Notary Public. The Investigating Officer, has recorded the statement of the Notary Public, who stated that the alleged leave and licence agreement, was not signed before him.

14. According to me, this is enough for me at preliminary stage to believe that the applicants have acted dishonestly and the provisions of Section 406 and 420 of the Indian Penal Code are attracted.

15. Hence, **both the present anticipatory bail applications are rejected.**

16. **In sequel, pending interim applications (if any) are also disposed off.**

[RAJESH S. PATIL, J.]