IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.761 OF 2025

Sarika Devendra Bodhankar ...Applicant
Versus
State Of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.1155 OF 2025

Nasiruddin Husain Bade Sha Shaikh ...Applicant
Versus
State Of Maharashtra ...Respondent

Mr. Dushyant Pagar i/b. Mr. P. S. Abrol, Advocate for the Applicant.

Mr. Nitin B. Patil, APP for the State.

Mr. Shafi Sayed, Advocate for Applicant in IA/1155/2025.

Mr. Kunal Bagul, Deonar Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 25 MARCH 2025

P.C.:

INTERIM APPLICATION NO.1155 OF 2025

1. Heard. I have gone through the contents of the application. In view of the law laid down by the Hon'ble Supreme Court in ***Jagjeet Singh & Ors. v. Ashish Mishra @ Monu & Anr.*, Criminal Appeal No. 632 of 2022,** it has been held that a victim is entitled to be heard during the

adjudication of the bail application of the accused.

3. In light of the same, the interim application is allowed in terms of prayer clause (a).

ANTICIPATORY BAIL APPLICATION NO.761 OF 2025

1. This is an application filed by the applicant/accused for grant of anticipatory bail in the event of her arrest in connection with C.R. No.09/2025 registered with Deonar Police Station for the offence punishable under Sections 318 (4), 316(2), 3(5) of Bhartiya Nyaya Sanhita, 2023.

2. In the FIR lodged based on the informant's complaint, the name of the present applicant was not mentioned. It was only after the investigation that her name was implicated. It is submitted on behalf of the applicant that she is a real estate agent who facilitated a leave and license agreement transaction between accused no.1 and the informant. It is an admitted fact that the informant paid a total sum of Rs.40,00,000/- to accused no.1. However, since accused no.1 did not hand over possession of the premises after receiving the amount, the informant contacted accused no.1, and both parties arrived at a settlement through a Memorandum of Understanding (for short, "MOU"). A copy of the MOU is annexed at page 62 of the present anticipatory bail application. As per the MOU, accused no.1

acknowledged receiving Rs.40,00,000/- and agreed to repay the amount through four cheques of Rs.8,00,000/- each and Rs.8,00,000/- in cash. However, accused no.1 failed to honor the terms of the MOU. The present applicant/accused No.2 is neither a signatory nor a witness to the MOU. She is a married woman residing with her family and is willing to cooperate with the investigation.

3. The learned APP and Mr. Shafi Sayed, advocate for the informant (applicant in Interim Application No. 1155 of 2025), have opposed this application, submitting that the present applicant received a sum of Rs.3,50,000/- from accused no.1. It is further contended that she is a well-known estate agent in the locality and was aware that the property in question was subject to a bank loan, making it unfit for a leave and license agreement with the informant. Therefore, it is submitted that the custody of the present applicant is necessary.

4. I have heard the learned advocate for all the parties and have gone through the documents on record. There is no dispute that the premises belong to accused no.1. A sum of Rs.40,00,000/- was paid by the informant to accused no.1. The present applicant acted as an estate agent/broker in the leave and license transaction, representing both the informant and accused no.1. In my view, her role is limited to that extent.

5. A Memorandum of Understanding (MOU) was signed between the informant and accused no.1. The present applicant is neither a party to the MOU nor a witness to it. As per the MOU, accused no.1 was to repay Rs.40,00,000/- to the informant. According to the informant, cheques amounting to Rs.32,00,000/- were handed over by accused no.1. However, all the cheques were dishonored, leading to filing of proceedings under Section 138 of the Negotiable Instruments Act. Accused no.1 has been in custody since 20 January 2025.

6. In such circumstances, I do not find any role of the present applicant beyond that of a broker in the transaction.

7. Further, allegations have been made against the present applicant, claiming that, as a local estate agent/broker, she was aware that accused no.1 had mortgaged the property with a bank and yet facilitated its offer to multiple parties, including the informant, for a leave and license agreement. However, I do not find merit in these submissions because:

(a) There is nothing on record to show that the present applicant was aware of the bank loan or the subsequent SARFAESI proceedings against the property.

(b) Even if a person has obtained a loan against a property, unless prohibited by a court of law, the said property can still be alleged on a leave and license basis to any party.

8. Therefore, I am not convinced by the submissions made by the APP and the informant.

9. I was also shown copies of complaints lodged by the informant with the police on 31 July 2024 and 8 October 2024. These complaints, which are available on pages 58 and 60 of the present anticipatory bail application, do not mention the name of the present applicant. Hence, the primary allegations of the informant, both in the police complaint and the FIR, are directed against accused no.1.

10. I have been informed that the applicant is a married woman residing with her family and has no prior criminal antecedents. It was also submitted on behalf of the applicant that accused no.1 intended to take possession of her premises for 11 months for a leave and license agreement. The applicant states that accused no.1 deposited Rs.3,50,000/- with her for the said premises located at Raman Mama Zopadpatti, Govandi, which is now in the possession of accused no.1. However, no leave and license agreement was executed between them. The applicant further submits that she intends to take legal action against accused no.1.

11. Considering the over all facts including fact that there was an MOU between informant and accused no.1, cheques issued by accused no.1 to the informant being dishonoured. I find no role of the present

applicant in crime registered. Therefore, protection needs to be granted to the applicant. According to me, a prima facie case is made out for granting anticipatory bail on the following conditions:-

ORDER

(a) The Anticipatory Bail Application is allowed.

(b) In the event of arrest of the Applicant F.I.R. No.C.R. No.09/2025 registered with Deonar Police Station for the offence punishable under Sections 318 (4), 316(2), 3(5) of Bhartiya Nyaya Sanhita, 2023. the Applicant shall be released on bail furnishing P.R. bond to the extent of Rs.20,000/- with one or more sureties of the like amount.

(c) The Applicant shall co-operate with the investigation and attend and meet the investigating officer of the concerned police station, 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 their contact number and residential

address to the investigating officer and shall keep him updated, in case there is any change.

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

8. The anticipatory bail application is disposed of.

(RAJESH S. PATIL, J.)