IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 ANTICIPATORY BAIL APPLICATION NO. 734 OF 2026

Kalpana Ashokkumar Kharat ....Applicant

VERSUS

The State of Maharashtra .....Respondent

Mr. P. P. Giri, Advocate for Applicant.
Mr. A. B. Girase, GP for the State.

CORAM : R. M. JOSHI, J.
DATE : 10th JUNE, 2026.

PER COURT :

1. Applicant seeks pre-arrest bail in connection with Crime No. 0213/2026 registered with Shirdi Police Station, District Ahilyanagar, for the offences punishable under Sections 316(2), 318(2), 318(4) of Bharatiya Nyaya Sanhita and Sections 39 and 44 of Maharashtra Money Lending (Regulation) Act.

2. First informant lodged report to the police claiming that since he was in the need of money, through his friend, he approached accused No. 1 for financial help. Accused had agreed to pay sum of Rs. 3 Crores on interest at the rate of 2% per month. He also put condition of execution of sale-deed in respect of the agricultural land

of the informant. It is alleged that the sale-deed came to be executed in favour of the Applicant and memorandum of understanding was obtained from them for re-transfer of the subject property on re-payment of loan. It is claimed by the informant that though he paid the entire amount of loan along with interest to the accused, the subject land was not transferred to him. It is thus alleged that the accused persons have committed offence punishable under Sections 39 and 44 of Money Lending Act as well as act of cheating.

3. Learned counsel for the Applicant submits that merely because the Applicant is wife of accused No. 1, she has been falsely implicated in this crime. It is contended that the Applicant has no concern with the transaction in question and that the Applicant has not executed the document of sale in respect of the subject land. It is his submission that the offence of criminal breach of trust and cheating cannot be simultaneously alleged. According to him, the First Information Report only depicts that there is a dispute of civil nature between the parties and considering the fact that the report came to be lodged belatedly, it is a fit case for protecting the liberty of the Applicant, she being a lady. He further submits that as per the allegations in the First Information Report, the alleged transaction

was entered into on 23.08.2023 and admittedly, the Applicant was not present there. He, therefore, submits that the question of entrustment of property to the Applicant does not arise. To support his submissions, he placed reliance on judgment in the case of Rikhab Birani and another vs. State of Uttar Pradesh and another, **2025 INSC 512**.

4. Learned Public Prosecutor appearing on behalf of the State opposed the application. It is contended that the application deserves to be rejected solely on the ground that the Applicant has suppressed the material facts and sought to mis-represent the Court. It is submitted that there is a specific plea raised before Sessions Court as well as this Court that the Applicant has no knowledge about the transaction of sale of the subject land. By drawing attention of the Court to the documents on record collected during the course of investigation, he submits that a Special Power of Attorney was executed by the Applicant as well as accused No. 1 for the purpose of presentation of the document of sale-deed executed by them before the office of Sub-Registrar. He pointed out signature of the Applicant on the sale-deed to contend that the Applicant had full knowledge of said transaction. He further argues that there is prima

facie evidence on record to show that this is a case of money lending and that offence under Money Lending Act gets attracted against the Applicant and accused No. 1. He drew attention of the court to the account statement of the Applicant indicating payment of sum of Rs. 85 Lacs for completion of said transaction. In any case, it is his submission that, having regard to the facts of the case, custodial interrogation of the Applicant is necessary.

5. At the outset, it needs to be recorded that the Applicant herein has come out with a specific case before the Sessions Court as well as this Court that she had no knowledge about the transaction in question i.e. sale-deed being executed in her favour by the informant. Even during course of arguments before this Court it is sought to be argued that Applicant is not signatory of sale-dded of informant's land. This contention of the Applicant is found prima faice false in view of the documentary evidence collected during the course of investigation. Though the Applicant claims that the sale-deed is executed by her constituted attorney on the basis of power of attorney issued by her, perusal of the said power of attorney indicates that the constituted attorney was not authroised to executed the document but had power to register the document only after it is

executed by Applicant and accused No. 1. There is prima facie evidence to indicate that the Applicant herself has executed the sale-deed in question. This Court, therefore, finds substance in the contention of learned Public Prosecutor that this is a case of suppression of facts and on that count alone, application deserves to be rejected.

6. Apart from the fact that there is suppression of material fact from this Court and even the Court is sought to be mis-reprsented by stating that the Applicant is not a signatory to the sale-deed in question, there is other material on record in the form of entries from bank account of the Applicant held by her individually. Thus, it cannot be said that the Applicant had no knowledge with regard to the transaction in question. Thus, this is not a case wherein there is no material on record to connect the Applicant with the crime in question. Considering the aforestated facts, this Court finds no reason to protect the liberty of the Applicant as the prosecution has made out a case for custodial interrogation of the Applicant. Hence, the application stands rejected.

(R. M. JOSHI, J.)

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