

**IN THE COURT OF SESSIONS FOR GR.MUMBAI AT DINDOSHI
BORIVALI DIVISION, MUMBAI**

ANTICIPATORY BAIL APPLICATION NO.701/2018

(C.R.NO.94/2018 VANRAI POLICE STATION)

Sandip Madhukant Shah **Applicant.**

V/s.

**The State of Maharashtra
(through Vanrai police Station)** **Respondent.**

Advocate Mr.TR Patel for applicant.

APP Mr.Salunke for State.

Advocate Madanmohan Mishra for Intervener.

**CORAM : HIS HONOUR JUDGE
SHRI A.T.WANKHEDE.
(C.R. No.14)**

Date : 7th July 2018.

-ORDER-

1 Applicant is asking for grant of anticipatory bail, in respect of Crime No.94/18 registered with Vanrai police station for offences punishable u/s 420,465, 466, 467, 468, 471, 472, 34 with 120-B of IPC.

2 In short, it is submitted by applicant/accused that he has only acted as Broker in the transaction and introduced the parties with each other. Thereafter the parties by themselves done all further transactions. Applicant has already paid the amount of commission to the complainant. There is no question of any recovery. There is no iota of evidence against applicant/accused . He is not the beneficiary in the

matter He is innocent and has not committed any offence whatsoever. The dispute is purely of civil nature. He is ready to cooperate the investigating agency. He has no criminal antecedents. Hence ,prays for grant of anticipatory bail.

3. Ld. APP opposed the application on the ground that, applicant/accused acted as a Broker in the transaction. He is already a witness in the agreement. He received the amount of Rs.9,50,000/- from the informant. Applicant/accused and others shown forged copy of order of Hon'ble High Court and also letter of Charity Commissioner. Offence is of serious nature. Detail investigation is required to be made in the offence. If applicant is released on bail, he will tamper with prosecution witnesses and may disappear evidence. The investigation is at primary stage. Hence, asked to reject the application.

4 Heard ld.advocate for the applicant as well as ld. APP. Perused police papers.

5 Offence came to be registered on the basis of report lodged by informant Pravinbhai Narainbhai Malani. They are doing the business of construction by name 'Neelkanth Developers'. They contacted applicant/accused for purchase of land. Accordingly, applicant/accused called them to show the land at Goregaon(East). He acquainted informant with accused Devendra and Kashmira Kulkarni. It is pretended that plot no.14,Survey no.11(Part), and CTS no.96, 96/1, 96/2 is owned by accused Devendra Rao and Kashmira Kulkarni. They also pretended that one Bungalow by name Narayan Niwas owned by applicant Devendra and Kashmira and shown letter of Charity Commissioner. As accused has gained faith of informant one

Memorandum of Understanding was effected in between them. In view of the same, informant paid amount of Rs.1,21,00,000/- to accused Devendra Rao and Kashmira Kulkarni and commission of Rs.8 lakhs to applicant/accused. Later on they avoided to hand over possession, so informant suspected something mischievous. It revealed to him that there is no order passed by High Court and no such letters are issued by the Charity Commissioner.

6. It is submitted by learned counsel for applicant/accused that the dispute is of civil nature and investigation is pertaining to documentary evidence for which physical custody of applicant/accused is not necessary for the purpose of investigation. Learned counsel for applicant/accused relied on the following judgments;

- 1) Jenish Kishorbhai Rajput Vs. State of Gujrat, Criminal Miscellaneous Application (For Anticipatory bail) No.9363/2017 of Gujrat High Court.
- 2) Patna High Court, Harendra Singh Vs. State of Bihar, Criminal Misc. No.7676/2016
- 3) Kerala High court, in the case of KG Venugopal Vs. State of Kerala, in bail application no.9166/2014
- 4) Punjab Haryana High Court, Criminal Misc.No.12917/2011 in the case of LM Gulati Vs. Unknown,

7. In the aforecited judgments, anticipatory bail was granted mostly on the ground that the offence is based on documentary evidence. Here in this case, there are specific allegations about preparing forged copy of order of Hon'ble High Court and letter of Charity Commissioner. Apparently, offence is of serious nature. Therefore, merely because offence revolves around documentary evidence, the accused is not entitled for anticipatory bail. Applicant and other accused falsely pretended and induced informant by showing copy of order of High Court and letter of Charity Commissioner.

8. Offence is pertaining to cheating and preparing forged documents. Offence is of serious nature. Detail investigation is required to be made as to where and how order and letters are prepared. Prima facie applicant is involved in the offence and he must having every knowledge about the transaction and documents. He received huge commission from informant and also from accused Devendra and Kashmira. The investigation is at primary stage. Considering the nature and gravity of offence, applicant/accused do not deserve for grant of anticipatory bail. Hence, the order.

ORDER

1. ABA No.701/18 is rejected.
2. ABA No.701/18 is disposed of accordingly.

07/07/2018

(A. T. Wankhede)

Additional Sessions Judge,
Borivali Division, Dindoshi, Mumbai

Dictated on : 07/07/2018
 Transcribed on : 11/07/2018
 Signed by HHJ on : 11/07/2018

“CERTIFIED TO BE TRUE AND CORRECT COPY OF the ORIGINAL
SIGNED JUDGEMENT/ORDER.”

Uploaded on:12/07/2018 at:1.45 pm S.G.Steno:Mrs.C.S.Sonawane

Name of the Judge (with Court room no.)	HHJ Shri A.T.Wankhede Court Room no.14
Date of pronouncement of judgment/order:	07/07/2018
Judgment/order signed by P.O. on	11/7/2018
Judgment/order uploaded on	12/07/2018

ABA No.701/18

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ORDER

