

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6302 OF 2013

Manish s/o. Sushilchand Choadhry **....Applicant.**

Versus

The State of Maharashtra & Ors. **....Respondents.**

Mr. N.K. Chaudhari, Advocate for applicant.

Mr. A.V. Deshmukh, APP for respondent Nos. 1 & 2.

Mr. N.S. Ghanekar, Advocate for respondent Nos. 3 to 10.

CORAM : T.V. NALAWADE, J.

DATED : 6th February, 2015.

ORDER :

1) The application is filed under sections 439 (2) of Cr.P.C. for cancellation of relief of anticipatory bail granted by the learned Additional Sessions Judge in favour of respondents No. 3 to 10 in a crime registered for offences punishable under sections 420, 406 etc. of Indian Penal Code. Both the sides are heard. The learned APP supported the application.

2) It is the case of present applicant that he and accused Arun Munot were friends and they had agreed to purchase the immovable property of two persons like Amit Premchand Jain and Bimalkumar Bhagwandas Tibrewala. It is the

case of applicant that Arun was his friend and as he gave promise that he would protect the property, present applicant decided to make investment in the property. The property from Satara, Tahsil and District Aurangabad, admeasuring 74 R. was to be purchased for Rs. one Crore and present applicant had given Rs. twenty lakh as his contribution. It is contended that he was to be given 20% share in the property i.e. 14.8 R. land. It is contended that applicant gave cheque of Rs. twenty lakh which was issued in the name of vendor and he went to Hyderabad for some work. It is contended that after that day, on many occasions, he made inquiry with Arun about the transaction, but Arun gave evasive answers. He realized that the cheque given by him was encashed on 30.6.2010. He contended that he approached vendor and the vendor also gave evasive answers.

3) It is the case of applicant that when he was in need of money and he wanted to sell the property, he approached Arun in May 2012. He contended that on that occasion, to help him, the amount of Rs. fifteen lakh was transferred by R.T.G.S. mode by Arun in his account. It is contended that in the month of June 2013, when he insisted, two more cheques of Rs. five lakh each were given by Arun, but some signatures were obtained by Arun of the complainant. It is the case of

complainant that due to conduct of Arun, he had suspicion and so, he made inquiry and collected copy of sale deed. According to him, he found that on the sale deed initially his name was mentioned as purchaser, but his name was scored and he was deleted from the array of purchasers. According to him, Arun Munot and others have deceived him.

4) The aforesaid contentions show that the cheque was encashed immediately, but the complainant did not take steps till July 2013. He had approached police to make complaint in July 2013. But initially he had not informed about the amount of Rs. fifteen lakh received by him from Arun. This circumstance was brought to the notice of police by Arun and then the applicant admitted that he had received Rs. fifteen lakh. He also admitted that two cheques of Rs. five lakh each were also given, but he contended that this amount was given only to help the complainant as he was in need of money at the relevant time. It appears that the complainant had filed civil suit, but in trial Court he failed.

5) The record shows that there is possibility that in the agreement of sale applicant/complainant was shown as the person who was to purchase the property along with Arun. The

document of sale deed also shows that initially his name was shown as purchaser and his share was shown as 10% and his name was scored before its execution and at that place, both the vendors have put their signatures. This property was not actually sold to present applicant. All these circumstances are relevant for consideration of the aforesaid allegations made by the applicant. Cancellation of anticipatory bail granted to accused is a serious matter. The aforesaid discussion shows that the dispute has base of record. Both the sides are saying something against each other. In view of nature of dispute, this Court holds that it is not desirable to interfere in the order made in favour of respondents. The learned counsel for applicant placed reliance on the following cases :-

(i) AIR 2003 SUPREME COURT 2748 [Ram Narain Poply Vs. Central Bureau of Investigation],

(ii) 2001 CRI.L.J. 2566 (1) [Puran Vs. Rambilas and Anr.],

(iii) 2008 CRI.L.J. 3008 (1) [Dinesh M.N. (S.P.) Vs. State of Gujrat].

The facts and circumstances of each and every case are always different. This Court holds that there is no possibility of interference in the order made by the learned Additional Sessions Judge.

6) In the result, the application stands rejected.

[T.V. NALAWADE, J.]

SSC/