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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1562 OF 2014**

Vijaynath Baban Pal	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. E. B. Dixit i/b Mr. P. R. Yadav and Ms. Priyanka Dubey for the Applicant

Ms.P. P. Shinde, A.P.P for the Respondent-State.

PC 31786/Khar Police Station.

CORAM : REVATI MOHITE DERE, J.

DATE : 31st MARCH, 2015.

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the State – Respondent.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. no.485 of 2014, registered with the Khar Police Station, Mumbai, for the alleged offences punishable under Sections 420, 406, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

3. The complainant has lodged an FIR on 27th November, 2014, alleging therein that in the year 2012 – 2013, as he wanted to purchase a flat, he had paid an amount of Rs.2,22,00,000/- for the purchase of the said flat to one Jitendra Gadia. It is alleged by the complainant, that when he had visited the house of Jitendra Gadia, the present applicant was also present in the house and that an amount of Rs.3,00,000/- was paid by the co-accused – Jitendra Gadia to the present applicant.

4. Learned Counsel for the Applicant submitted that the amount of Rs.3,00,000/- which was paid by co-accused – Jitendra Gadia to the present applicant, was the money that was owned by Jitendra Gadia to him, as the present applicant was an Estate Agent. He submitted that the applicant is 60 years old and has suffered a Left Side Paralytic stroke. He relied on the certificate issued by the Sir J.J. Group of Hospital, which shows that the applicant is permanently disabled to the extent of 46%. He submitted that the applicant had no role to play in the transaction that was entered into between the complainant and co-accused – Jitendra Gadia, who had received the entire consideration.

5. Learned APP opposed the bail application. She submitted that the applicant along with co-accused – Jitendra Gadia cheated the complainant and that the applicant had received an amount of Rs.3,00,000/- from the complainant. She submitted that all the co-accused in the said case were arrested and subsequently enlarged on bail. She submitted that the applicant was a mediator in the transaction and there are conversations recorded of the applicant along with the other co-accused. She submitted that the conversations recorded on the mobile have been sent to the Chemical Analyst. She submits that it is necessary to collect the voice sample of the present applicant as well his specimen signatures, as certain documents were forged and created in the said case. She further submitted that as per the diary entry of the co-accused – Jitendra Gadia, the applicant had received a sum of Rs.1,25,00,000/- and therefore the custody of the applicant is necessary.

6. The learned counsel for the applicant states, that the applicant will go the Police Station, for recording of his voice sample and for giving his specimen signature, as and when called for and is ready to co-operate with the Investigating Agency.

7. Perused the case papers. Admittedly, charge-sheet has been filed as against all the co-accused in the said case. Considering the fact, that the applicant has suffered a Paralytic stroke of the left side and is also certified to be disabled to the extent of 46% and the fact that the applicant had also attended the police station, the custody of the applicant is not necessary. The applicant is also ready and willing to attend the police station to give his voice sample and specimen signatures, as and when called for. Considering the peculiar facts of the case, the applicant deserves to be granted pre-arrest bail on the following terms and conditions :

ORDER

- i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;
- ii) The Applicant shall attend the Khar Police Station, Mumbai, every day, starting from tomorrow i.e. 1st April to 3rd April, 2015, and thereafter from 6th April to 10th April, 2015, between 9.00 a.m., to 12.00 noon, to enable the police to take his voice sample and for obtaining specimen signatures of the applicant, and thereafter as and when called for by the Investigating Officer ;

- iii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Khar Police Station, Mumbai;
 - iv) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case;
 - v) The applicant to cooperate with the conduct of the trial.
8. The Application is allowed and disposed of in above terms.
9. The aforesaid observations are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.
10. Parties to act upon the authenticated copy of this order.

REVATI MOHITE DERE, J.