

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1865 OF 2015

Mr. Manoj Baliram Dhumal.Applicant.
vs.
The State of Maharashtra.Respondent.

Mr.A.A.Garge for the Applicant.
Mrs. P.P. Shinde, A.P.P. for the State.
Mr. Bambal, API, Mahatma Phule Chowk, Police Station, Kalyan present.

CORAM : A.S. GADKARI, J.**DATE : 11th December 2015****P.C. :**

The applicant is apprehending arrest in CR No.177/2015 registered with Mahatma Phule Chowk Police Station, Kalyan, Dist. Thane under Section- 420 and 406 read with 34 of the I.P.C.

2) The Complainant Shri. Sandip Keshav Kadam has lodged the first information report dated 17.1.2015 stating that after getting the knowledge that the firm Sun-city Homes Builders and Developers having their office at Bldg.No.3, Shop No.14, Sarvodaya Garden Society, Kalyan (W) was constructing low budget houses near the Village Nevali, on Badlapur MIDC road admeasuring about 350 sq. ft. The complainant and other persons from the lower economic strata of the society got lured from the said information and paid amounts ranging from

Rs.60,000 to 1,50,000/- to the accused namely Kunal Waghmare- the owner of the said firm. Mr. Jai Patel, Manager of the said firm, other persons and co-accused i.e. owner of the said firm had assured that they will give possession of the said rooms upto December 2014. However, when they visited the office of the said firm in the month of December 2014 they found that the office was locked and the said persons were not available at the said place. In the premise, the complainant lodged the FIR.

3) Learned counsel for the applicant submitted that the name of the applicant is not reflected any where in the FIR. The police while opposing the bail application of the co-accused Kunal Waghmare has stated that by using the debit card of the applicant the original accused No.1 Kunal Waghmare has purchased certain ornaments from the Jeweller. That, on the receipt of payment from the said debit card the signature of applicant appears and therefore the police are having suspicion against him. He further contended that for verification of the signature custodial interrogation of the applicant is not at all necessary.

4) The learned APP submitted that the applicant is also an accused in CR No.I-49/2013 registered with Kolsewadi Police Station, Kalyan under Section 420 of the I.P.C. and when he was on bail in the said crime, he has committed the present crime.

This is an additional ground for not exercising the discretion while granting anticipatory bail in favour of the applicant.

5) The learned APP produced before me papers of the investigation. I have perused the said papers. During the course of investigation, it is revealed that the present applicant was one of the master minds in the entire crime. It is revealed that at the instance of the applicant all registers, vouchers and other documents were kept at Kongaon instead of keeping the same at the office address of the firm. It has further revealed in the investigation that it is the applicant who has advised the other accused persons to close down the said office and conceal themselves. In view of the above, it is apparent that the applicant has played an active role in the crime. Unless and until he is interrogated by taking him into custody the entire truth will not be unearthed. Taking into consideration the gravity of offence and the active role played by the applicant in the entire crime and in the circumstances as mentioned above, I find no merits in the application. Application is accordingly rejected.

(A.S. GADKARI, J.)