

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO. 406 OF 2015

(Amit Ishwari Rao Vs. The State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri G. L. Bajaj, Advocate for the applicant.
Shri S. S. Doifode, A.P.P. for the State.

CORAM : V. M. DESHPANDE, J.
: 02 SEPT., 2015

Heard learned Counsel for the applicant and
learned A.P.P. for the State.

2. This is an application for anticipatory bail. The applicant is facing charge for the offence punishable under Section 420 read with Section 34 of the Indian Penal Code in Crime No. 195/2015.

3. Main contention of the learned Counsel for the applicant is that at the relevant time, the present applicant was not the Director of the Company known as Matrix Infra Estate Pvt. Ltd. and as such he has no concern with the said company and, he has been falsely implicated in the crime.

4. The magnitude of the crime could be seen if the first information report is properly scanned. It reveals that the applicant is accused of cheating various persons who were in hard pressed need for their shelter.

5. Every person has a dream in a life to have shelter on head. Such person/citizen always tries his level best to save the money with a hope that one day there will be his home.

6. The applicant and other co-accused in the present crime are the persons who have taken disadvantage of the desire of such persons by alluring them that they will have their dream home on a plot where they will be constructing building having various apartments.

7. It is the case of the prosecution that a plot on which this Company, Matrix Infra Estate Pvt. Ltd., was shown to various persons, was neither belonged to the Company nor the Planning Authority, i.e. Nagpur Improvement Trust, at no point of time has sanctioned any map for building construction in spite of that the needy persons were cheated by fleecing the money from them to the tune of Rs.2,29,06,569/-.

8. From the case papers, it is clear that the investigation is at preliminary stage. The submission of the learned Counsel for the applicant cannot be considered while considering the application for anticipatory bail since plea is in the nature of *alibi* has to be considered as defence during the trial.

9. The learned A.P.P. for the State has rightly pointed out that role is played by the present applicant. The offence punishable under Section 420 of the Indian Penal Code starts when the applicant, right from the inception has an intention to cheat the person.

10. It appears from the investigation papers that right from the beginning the Directors of Matrix Infra Estate Pvt. Ltd. were having intention to cheat the public at large showing the plot which was not belonging to them. No case is made out for grant of anticipatory bail.

The application stands rejected.

Interim order stands vacated.

JUDGE