

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [ABA] No.471 of 2015
[Prabhakar Keshavrao Londhe Vs. State of Mah.]

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

Court's or Judge's orders

Mr. A.S. Mardikar, Sr. Adv., with Mr. S.G. Joshi, Adv., for the applicant.
 Mr. S.S. Doifode, APP for respondent-State.

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CORAM : A.B. CHAUDHARI, J.

DATE : 03rd December, 2015.

This is an application for grant of anticipatory bail by invoking Section 482 read with Section 438, Criminal Procedure Code, in Crime No. M Case 1/2014 registered with Police Station, Imambada, Nagpur, for the offences punishable under Sections 406, 409, 420 and 506 of Indian Penal Code, Sections 4,5,7,10,11 and 13 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, and Section 3 (1) (v) and 3 (1) (x) of the Scheduled Castes & Scheduled Tribe (Prevention of Atrocities) Act.

The complainant/informant filed an FIR with Imamwada Police Station, Nagpur, for the aforesaid offences which were registered against the applicant on

the directions issued by Judicial Magistrate First Class, Nagpur.

Upon registration of the FIR, the applicant filed an application before the Special Judge for grant of anticipatory bail, who, by the impugned order dated 2nd September, 2015, rejected the same in view of the bar contained in Section 18 of the Scheduled Castes & the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

Heard learned counsel for the rival parties.

It is clear and rather the admitted facts are that the complainant Yuvraj Humne had approached the applicant – builder for purchasing a flat in the building complex which the builder-applicant was to construct by name “Honey Archana Complex”. The complainant also deposited a part payment for booking the Flat No. 202, which was allotted to him. There was a schedule of payment of consideration. But then the complainant, despite repeated demands to pay back his installments for balance consideration did not pay the same and as such the applicant issued a notice to him to make the payment of the balance amount on or before 5th July, 2002; failing which the Agreement of Sale shall stand cancelled. Despite receipt of notice, the complainant did not pay any amount of balance consideration and that resulted into cancellation of agreement.

The complainant approached the State Consumer

Forum by filing a complaint, which was decided thereafter, and was dismissed. The complainant challenged the said order of the Forum in which there was no interim order made. In view of the non-payments made by the complainant, the flat was sold to some other person, which was mutated by the applicant in revenue record in the name of that person. However, the complainant lodged an FIR against the applicant with a concocted story and gave a colour to the allegations made by him by invoking Section 3 (1) (v) and 3 (1) (x) of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act. The police having received the complaint, did not register FIR and, therefore, he filed a complaint under Section 156 (3) of Criminal Procedure Code before the Magistrate, who made a direction for investigation.

In the light of the above facts, it is clear that the allegations made by the complainant Yuvraj Humne are clearly motivated and prima facie he has given a colour to the allegations made by him by adding the provisions of Section 3 of the Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, that too in the year 2007 for the first time and thereafter in 2013.

I am satisfied that with an oblique motive, the complaint was filed in order to achieve his unlawful object, particularly when the complainant's complaint before the State Consumer Forum was also dismissed. Hence the following order:-

ORDER

Rule is made absolute in terms of Prayer
Clause [I].

Judge

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