

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 113 OF 2016

Anil Jayantilal Ambavat vs. The State of Maharashtra and  
ors.

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| Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr. Aarti Bhoir i/by N.R.Mishra for the Applicant.  
Smt. S.S.Kaushik, APP for the Respondent-State with  
R.N.Gaonkar.  
Mr. Ashok Singh for Respondent No.2.

CORAM :A.S.GADKARI, J.

DATE : 23<sup>rd</sup> September, 2016

P.C.

- 1) This is an application under Section 438 of the Cr.P.C. The applicant is apprehending arrest in CR No.290 of 2015 dated 12.6.2015 registered with Santacruz Police Station, Mumbai under Section 420 read with 34 of the Indian Penal Code.
- 2) The first information report dated 12.6.2015 is lodged by Smt. Sanjivani Phanse, Law Officer of the India Bulls Housing Finance. It is stated in the first information report that in the month of February, 2007 the applicant applied for a loan of Rs.40.00 lacs for purchasing Flat Nos.101 and 102, Sai Park, Ramesh Nagar, Amboli Village, Andheri (W). The applicant had submitted the documents

showing his interest and ownership over the said property by submitting certain documents which are mentioned in the first information report. After taking search by the informant through their Solicitors it was revealed that the said property was free from encumbrances and can be mortgaged. After completing the legal formalities the loan was advanced to the applicant. The said loan was advanced after mortgaging the said flats. It is further stated that upto 30.11.2014 the applicant paid the instalments regularly and subsequently stopped paying the instalments. The Officers of the finance company thereafter visited the said flats and noticed that in Flat No.101 Mr. Anil Gopal Shelar and in Flat No.102 Mr. Firoz Gulam Mohd. Makrani were staying. The said two persons claimed that they have purchased the said flats from M/s. Raj Constructions. That, partners of the said Raj Construction has given no objection certificate for mortgaging the said flats and in spite of the said fact the applicant in connivance with partners of M/s. Raj Constructions sold the said flats to the afore stated two persons. In the premise, the first information report was lodged.

3) The Anticipatory Bail Application No.2731 of 2015 preferred by the applicant before the Court of Sessions, Greater Mumbai was rejected on 5.1.2016. The applicant thereafter preferred the present application on 14.1.2016. The applicant was granted interim relief by an

order dated 20.1.2016. The present application was thereafter listed for hearing on various dates. The learned counsel appearing for the applicant on instructions from the applicant from time to time made a statement that the applicant was and is ready and willing to settle the matter with the finance company and to pay the balance amount which is due and payable to the finance company. On 22.8.2016, at the request of the applicant who was personally present in Court, the matter was adjourned to 31.8.2016 on the basis of the statement made by the applicant that he will deposit the alleged amount involved in the present crime either with the registry of this Court or with the finance company. The record discloses that the applicant has not honoured his words and has failed to deposit the said amount. Today, the learned counsel for the applicant submitted that the applicant is unable to deposit the said amount in the registry of this Court. As the applicant has failed to deposit the said amount in this Court despite of making submissions and statements from time to time before this Court, the interim relief granted by an order dated 28.1.2016 is hereby vacated and as a consequence thereof, the application is also dismissed.

(A.S.GADKARI, J.)