

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 383 OF 2016**

Nilendra Madhukar Mahajan	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Yuvraj P. Narvekar for the Applicant

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

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 23RD MARCH, 2016

P.C. :

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

2. By this Application, the applicant seeks pre-arrest bail in connection with C.R. No.5 of 2016 registered with the Chandan Nagar Police Station, District – Pune, for the alleged offences punishable under Sections 420, 465, 467 & 471 of the Indian Penal Code.

3. The prosecution case, in short, is that one Mr. Abhijit Gaikwad, proprietor of M/s. A. G. Constructions along with one Mr. Tupe had constructed a building by the name “Gracia” at Kharadi, Pune. One

Mr. Ashish Ingulkar was appointed as an agent to sell the said flats in Gracia. According to the complainant, the said Ashish Ingulkar had, in turn, appointed one Bhushan Saraf as a sub-broker. It appears, that the said Bhushan Saraf had sold the same flat to more than one person. Pursuant to the same, the aforesaid C.R. was registered, at the behest of the Complainant – Abhijit Gaikwad, as against Bhushan Saraf.

4. Learned counsel for the applicant states that the complaint has been lodged only as against Bhushan Saraf, who is alleged to have sold one flat to almost 12 persons. He submits that the applicant himself, is a victim of fraud, committed by Bhushan Saraf. According to the learned Counsel, the applicant met Bhushan Saraf sometime in 2010-11 at a family function, through his sister-in-law. He submitted that as Bhushan Saraf was to get married to his sister-in-law, they became friends. According to the learned Counsel, Bhushan Saraf had told the applicant that he had good relations and contacts with various builders and promoters in Pune City, and that the applicant and his family should invest in real estate projects, as the interest that they would receive, would be much higher. He submitted that pursuant to the said representation made by Bhushan Saraf, the applicant and his

family members invested an amount, to the tune of Rs.73,00,000/-. He relied on certain Bank statements of the I.C.I.C.I. Bank of the applicant and his father. He relied on page No.31 of the application to show the various amounts which were invested by the applicant and his family members with Bhushan Saraf. According to him, the said amounts were transferred to Bhushan Saraf, right from June, 2013 to December, 2015. He has stated that Bhushan Saraf has made part payments. He relied on I.C.I.C.I. Bank statements in support of the same. According to the learned Counsel, when the applicant read about the complaint lodged against Bhushan Saraf, the applicant immediately approached the Chatushrungi Police Station, Pune to lodge a complaint against Bhushan Saraf. However, the Chatushrungi Police Station directed him to make a complaint with the Chandan Nagar Police Station, who was investigating the complaint against Bhushan Saraf. He submitted that since Chandan Nagar Police Station asked him to go to Shivaji Nagar Police Station, Pune, a complaint is given by the applicant to the said Police Station. However, till date, no FIR has been registered.

5. Learned A.P.P states that there was some financial transaction between the applicant and Bhushan Saraf. However, she is unable to point

out that the applicant had any knowledge that Bhushan Saraf had sold one flat to several persons.

6. Perused the papers. *Prima facie*, there is nothing to show that the applicant had knowledge that Bhushan Saraf had sold one flat to several persons or that the money that was being returned to him, was from the money that Bhushan Saraf had received illegally from various flat purchasers. Admittedly, none of the witnesses to whom the flat has been sold by Bhushan Saraf, have spoken about the applicant. It *prima facie* appears there was some monetary transaction between the applicant and Bhushan Saraf, pursuant to which money was exchanged between the two.

7. Considering the aforesaid, the custody of the applicant is not required. Applicant is granted anticipatory 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.15,000/- with one or two sureties in the like amount ;

(ii) The applicant shall attend the Chandan Nagar Police Station, Pune, as and when called for, till the filing of the charge-sheet;

(iii) The applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.

8. The application is allowed in the above terms and is disposed of accordingly.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.