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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.729 OF 2016

Bhagwan Prabbhu Appa Gunjkar ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Kamran Shaikh for the applicant.

Mr.Y.M.Nakhwa, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 29TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.57/2016 for offence punishable under section 420 of the Indian Penal Code registered with Kamothe Police Station, Raigad at the instance of Sanjay Abaji Mohite by this application is praying for releasing him in the event of his arrest.

2. The learned counsel appearing for the applicant submitted that the applicant has given undertaking before this Court. He has paid amount of Rs.12 lacs to the informant as well as his two associates. The learned counsel further submits that other customers have already resorted to proceedings under section 138 of the Negotiable Instruments Act, 1881 and as such, the applicant be released on

anticipatory bail.

3. The learned APP opposed the application by contending that during investigation, it is transpired that amount payable to one customer Vijay Hanumant Vetal is still due. The learned APP further argued that another F.I.R. is lodged against the present applicant by other customer.

4. Perused the F.I.R. as well as papers of investigation. It is seen that by posing himself as a Builder, the applicant allured prospective buyers to book flats in the proposed scheme and accepted deposit of Rs.4 lacs from them towards booking amount of the flat. Neither the building is constructed nor the amount is refunded to the prospective buyers.

5. When the matter came up before this Court on 20th June, 2016, the applicant had undertaken to deposit the amounts received by him from the informant and his two associates. Now, statement is made that amount payable to the informant and his two associates is refunded by the present applicant. Papers of investigation shows that one Vijay Hanumant Vetal had also deposited amount of Rs.4 lacs with the present applicant for booking an apartment in the year

2013. His statement goes to show that neither there is construction of the apartment nor amount is refunded by the present applicant. At the instance of Macchindra s/o. Govind, another offence bearing Crime No.72/2016 for offence punishable under section 420 of the Indian Penal Code came to be registered at the A.P.M.C. Police Station, Navi Mumbai wherein again the informant has alleged that the applicant has accepted an amount for booking of apartment, but neither the apartment is constructed nor amount refunded. It is further averred that cheques given by the present applicant are also dishonoured by the bank.

6. *Prima facie*, it is seen that the present applicant has induced several persons in need of housing to book apartments and has neither constructed the apartments nor refunded the booking amount. This makes it clear that intention to cheat was present at the time of inception itself. No case is for pre-arrest bail is made out. Hence the order :-

The application is rejected.

(A.M.BADAR, J.)