

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 822 OF 2016

Mr. Mahesh Murlidhar Kharkar	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr. Kalpesh Patil, Advocate for the Applicant.
Ms. S.S. Kaushik, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 1st DECEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.48 of 2016 for the offences punishable under sections 120B, 418, 420, 465, 467, 468, 471, 474 of the I.P.C. The incident alleged to have been taken place in between 01.01.2012 to 23.01.2016.

2 It is the case of the prosecution that the complainant was made to understand by the present applicant and one Mr. Bhagat of Aishwarya Construction that they are owners of the land in question and if applicant intends to buy any tenement therefrom he was required to book so by paying some advance amount. It is claimed that the applicant though has never promised any returns much less developing of the property in favour of prospective purchasers like applicant, it is Mr. Bhagat of Aishwarya Construction and Developers who have accepted consideration from prospective buyers like the complainant and committed the offence in question by not honouring the commitment. According to him, said Mr. Bhagat was already arrested and released on regular bail.

3 The learned A.P.P. opposed the application on the ground that it is the contention of applicant that the land was under acquisition still, upon misrepresentation by the co-accused Mr. Bhagat parted with the land which has resulted into the commission of crime in question. It is claimed that entire records which demonstrate title in favour of applicant, is forged one including that of 7/12 extract, building permission etc.

4 Perused the material available on the record. It is admitted by the present applicant that the land which is owned by him and subject matter of present crime was under acquisition of the M.I.D.C. There is an embargo under the Land Acquisition Act on the right of the applicant to transfer the land once Section 4 notification is issued. In view thereof the applicant ought not to have parted with the land to the developer Mr. Bhagat for carrying out development.

5 The forged document i.e. 7/12 extract, the development permission from the Corporation could be read to the benefit of the applicant as by carrying out development on the property, the applicant would have been benefited as he has also accepted the consideration from the part of the amount received by developer by making false promises. There is a prima facie case against the applicant. There is no protection in favour of the applicant till date, no case of the pre-arrest bail is made out.

4 Hence, the application is rejected.

(N.W. SAMBRE, J.)