

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1097 OF 2016
Amit R.Phatak vs. State of Maharashtra.

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.Nikhil Rejeshirke for the Applicant.
Ms.R.M.Gadhvi, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.
DATE : 21st October, 2016

P.C.

1. This is an application under Section 438 of the Cr.P.C. for pre-arrest bail in CR No.184 of 2015 dated 20.5.2015 under Sections 420 read with 34 of the Indian Penal Code.
2. Heard the learned counsel for the applicant and the learned APP. I have also perused the documents annexed to the application and the file containing the papers of the investigation.
3. The first information report is lodged by Shri. Prakash Masurkar on 20.5.2016. It is stated in the said report that the complainant was having acquaintance with the applicant and was knowing him for last more than 15 years. That in the year 2007 the applicant represented the complainant that there is a premises for sale in

Shrikrishana Society Rangari Bodak chawl which is taken over by MHADA and the said room will be made available to the complainant on payment of Rs.20.00 lacs. The applicant also represented the complainant that he is having good relations with the authorities in MHADA and the said transaction will be completed without any hassles. The applicant represented the complainant that amount will have to be paid in cash. The complainant thereafter from the year 2007 to 2012 paid an amount of Rs.20.00 lacs to the applicant and other accused persons namely Smt. Aruna Sawant and Suhas Pawar @ Suhas Patil. It is stated in the report that at the instance of the applicant the complainant issued two cheques for an amount of Rs.1,28,000/-and 1,89,000/- in favour of Shri. Jagannath Desai and the said cheques were realised. When the complainant enquired about the said person is, the applicant informed him that the said person is the officer from MHADA and instrumental in transferring the said room in favour of the complainant. When the complainant enquired about the registration of the document and transfer of the said room in his name the applicant informed him that he will get the said room and he should not worry about the same.

It is specifically and categorically stated in the first information report that after receipt of the said payment the applicant started dodging the complainant and also gave evasive replies about the transfer of the said

room. The complainant thereafter contacted the co-accused Smt. Aruna Sawant and informed the said fact to her. The complainant subsequently realised that the applicant by giving false promise and assurance to him that a room belonging to MHADA will be transferred in his name accepted Rs.20.00 lacs and did not either gave the said room or return the said amount. In the premise, the first information report is lodged.

4. The learned counsel for the applicant submitted that co-accused Suhas Pawar @ Suhas Patil has accepted the said amount and the applicant has nothing to do with the amount involved in the crime. He submitted that the applicant has been falsely implicated in the present crime. He submitted that the applicant was working with Bombay Port Trust and he is not in the business of real estate agency. He further submitted that the custodial interrogation of the applicant is not necessary and he maybe granted per arrest bail.

5. It is to be noted here that, it is the specific and categorical allegation against the applicant that due to his acquaintance with the complainant, he represented the complainant that the complainant will get a room belonging to MHADA situated in Rangari Bodak Chawl for an amount of Rs.20.00 lacs and the said entire transaction will be effected by the applicant. The papers of investigation further revealed that, it is the applicant who is the main culprit of the present crime. It further appears

that the said room which the applicant assured the complainant to be transferred in the name of the complainant belongs to one Mr. Jagannath Desai and at the instance of the applicant the complainant issued cheques in the name of Mr. Jagannath Desai and the said cheques have been encashed. The papers of investigation further revealed that it is the applicant who since beginning induced the complainant to part with the said huge amount, despite the knowledge that room belonging to MHADA cannot be transferred in the name of the complainant. It is necessary for the investigating agency to unearth the entire truth behind the crime and the same is not possible without the custodial interrogation of the applicant. From the papers of investigation it prima facie appears that the defence taken by the applicant is not tenable.

After taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that applicant cannot be granted pre-arrest bail and the application is accordingly rejected.

(A.S.GADKARI, J.)