

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1241 OF 2015

Gopal Nityanand Das	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Sandeep Dere, Adv. for the applicant.
Mrs. G.P. Mulekar, APP for the State.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 29th February, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.43 of 2015 registered with Koregaon Park Police Station, Pune for the offences punishable under Sections 406, 409, 420, 467 & 468 of the IPC.

2 The said crime was registered pursuant to the FIR lodged by Achuyut Korde. The allegations against the applicant are that he and one Mahesh Kulkarni had taken a sum of Rs.6 Crores from the complainant for purchasing a property. It is also alleged that the said Mahesh Kulkarni had assured the complainant that in the event he was unable to repay the said money, he would transfer the land situated at Mapusa, Goa in his name. It is alleged that the applicant

herein was involved in the said land transaction with the co-accused Mahesh Kulkarni. Since Kulkarni failed to refund the amount of Rs.6 Crores and further failed to transfer the land as alleged, the complainant lodged a complaint, pursuant to which the aforestated crime has been registered against Mahesh Kulkarni and the present applicant. Apprehending his arrest, the applicant had sought for bail before the Addl. Sessions Judge. The said application was rejected by order dated 9th August, 2015. Hence the present application.

3. Heard Mr.Dere, the learned counsel for the applicant and Mrs. Mulekar, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. At the outset it may be mentioned that in the morning session, after having argued the matter, the learned counsel for the applicant had sought time to seek necessary instructions to withdraw the application and at his request, the application was kept in the afternoon session. When the case was taken up in the afternoon session, the counsel for the applicant remained absent. Hence the application is being decided on merits.

5. The FIR lodged by Narendra Korde prima facie reveals that the co-accused Mahesh Kulkarni had borrowed from him a total sum of Rs.6.10 Crores by representing to him that in the event he failed to repay the money he would transfer the land situated at Mapusa, Goa in his favour. The complainant has stated that Mahesh Kulkarni has failed to return the money and informed him that he had invested the money in 126 plots ad-measuring to 80,000 Sq.mtrs. at Goa and that he would transfer the said property in his name. The complainant had stated that Mahesh Kulkarni executed and handed over to him one document titled as Memorandum of Deposit of title. The complainant had stated that the said document was false and fabricated and that said co-accused Mahesh did not own any properties as stated in the said document. The complainant further stated that Mahesh Kulkarni thereafter issued to him a cheque for Rs.8.75 Crores and that said cheque was also dishonoured. Realizing that he had been cheated for Rs.6.10 Crores, the complainant lodged a complaint and pursuant to the order under Section 156 (3) of Cr.P.C., the aforestated crime has been registered against the applicant.

6. The records prima facie reveal that Mahesh Kulkarni had entered into a memorandum of understanding dated 12th March, 2010

with Gabriel D'Souza and agreement for sale dated 21st April, 2010 through his power of attorney John Yury Lobo in respect of property situated at Tivim. The applicant was a witness to the agreement for sale dated 21st April, 2010. A perusal of the said document reveals that the property agreed to be sold was a tenanted agricultural property and the vendor had agreed to obtain affidavit / no objection of the tenants and also to get the land converted from agricultural to settlement zone. The applicant also entered into an agreement with Mahesh Kulkarni and agreed to work as a mediator and received Rs.3,00,00,000/- and agreed to refund the money if the sale transaction is not completed. The records thus reveal that the applicant has not merely acted as a lawyer but was directly involved in the transaction between the concerned parties. The records prima facie reveal the involvement of the applicant. The complainant has been cheated for an amount of Rs.6.10 Crores. The offence is of serious nature and needs to be investigated thoroughly.

7. In the light of these facts, the application is dismissed.

(ANUJA PRABHUDESSAI, J.)