

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1483 OF 2015

Balasaheb Bhagwanrao Deshmukh	...	Applicant
Vs.		
The State of Maharashtra & Anr.	...	Respondents

Mr. M.K. Kocharekar i/b. Mr. Ganesh Bhujbal, Advocate for the applicant.
 Mrs. S.S. Kaushik, APP for the State.
 Mr. Murtaz Najmi a/w. Ms. Megha Keluskar, Advocate for respondent no.2.
 Mr. M.B, Raut, P.S.I., Sagari Police Station.

CORAM: **MRS.MRIDULA BHATKAR, J.**
 DATE: **1st April, 2016.**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is facing charges under sections 420, 406 of the Indian Penal Code at C.R. No. I-118 of 2015 registered with NRI Sagari Police Station

2. One Minakshi Ankush Kekan gave FIR to the police on 10th August, 2015 that she and her husband has booked a flat no. 302 for Rs.7,70,000/- in the year 2005 with the applicant/accused. They paid Rs.6,00,000/- and he promised that he would hand over possession of the said flat within 4 months. They deposited Rs.6,00,000/- at the time of booking and receipts to that effect were given by the applicant/accused. Though for the last 10 days from time to time they followed applicant/accused, the possession was not given to them. No agreement was entered into by the

applicant/accused and in January, 2015 they found that room no. 302 which was booked by them was sold to some other person named Virkar and he was put in possession. Thus, the applicant/accused have cheated the complainant.

3. The learned counsel for the applicant/accused has submitted that the payment of Rs.6,00,000/- by the complainant and her husband to the applicant/accused is admitted. It is also true that the applicant/accused sold Flat no. 302 to the other person and he is put in possession, however, the applicant/accused is ready to offer Flat No. 202 on the 2nd floor which is having a bigger area of 810 sq.ft. whereas Flat no. 302 was of 770 sq.ft. The learned counsel submitted that the applicant is ready to pay Rs.12 lakhs to the complainant in lieu of their booking of the flat or he is also ready to give them Flat No. 202, if they pay him Rs.5,00,000/- by way of difference. The learned counsel further submitted that during last 10 years, the applicant provided them house free from rent and they have been residing there. He submitted that the applicant is ready to cooperate the police and hence, he prays for pre-arrest bail.

4. Learned APP and learned counsel for the complainant both opposed this Bail Application and submitted that the applicant/accused have

cheated the complainant by taking Rs.6 lakhs and not handing over the possession of the flat.

5. Perused the first information report, statements of witnesses and police papers produced before the Court. The applicant/accused is ready to deposit Rs. 12 lacs in the Court and is also ready to give Rs. 12 lacs to the complainant, subject to conclusion of the trial. This statement of the applicant/accused is accepted. Considering the facts of the case and the submissions made by the parties, pre-arrest bail is granted to the applicant on the following terms and conditions:

ORDER

- i) In the event of arrest, the applicant/accused shall be released on bail upon furnishing PR. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- ii) As per the statement made, the applicant shall deposit Rs. 12 lacs in the High Court till 13th April, 2016. The Registrar is directed to invest the said amount in the nationalized bank.
- iii) The applicant/accused shall not pressurize the complainant;
- iv) The applicant/accused shall not indulge into any criminal activity while on bail;
- v) The applicant shall not tamper with the evidence;

vi) The applicant shall cooperate with the Investigating Officer and shall attend the concerned police station once on 5th April, 2016 between 6.00 pm to 8.00 pm.

vii) In the event of breach of any of the conditions mentioned above, the prosecution are at liberty to move the Court for cancellation of pre-arrest bail.

6. The Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)