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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1636 OF 2015

Usman Abdul Latif Pinjara ..Applicant.
Vs.
The State of Maharashtra .. ..Respondent

Mr. Rahul Kadam for applicant.
Ms. Rutuja Ambekar, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 25th February 2016.

P.C.

1 This is an application for pre-arrest bail in CR No.80 of 2015 dated 20.2.2015 registered with R.A.K. Marg Police Station under Sections 420, 464, 465, 467, 467, 471, 34, 506 (2) of IPC.

2 The FIR dated 20.2.2015 is lodged by Smt. Sabira Mohmmad Yusuf aged about 70 years. In the said report, she has stated that she had taken room No.7/8, Chawl No.39, Sewree Cross Road on a Pagdi basis. That the said room was purchased by her from Mhhammed Kasbati for a consideration of Rs.33 lacs. After the said room was purchased from Mohammed Kasbati, she had allowed the said person to stay in the said room on rental basis and the she was getting regular rent from the same. That subsequently the said Yasin Kasbati started avoiding to pay the rent and therefore the neighbour of the complainant namely Smt. Shahida advised her to contact the present applicant. The said Smt. Shahida also assured the complainant that the present applicant will get the said room vacated. The complainant thereafter contacted the applicant and the applicant assured her that he will get the said room vacated. The complainant was out of India from February 2014 and returned to India in the month of March 2015. In the meantime Mr. Mohammd Yasin Kasbati had vacated the said room and handed it over to Smt. Shahida. Subsequently one person by name Naushad contacted the complainant and informed her that he is intending to purchase the said room.

That in the month of July 2014 the nephew of the complainant informed the complainant that the said room has been purchased by a person by name Islam Varalia. The complainant thereafter went to her room and found that the door of the said room was opened and the repairing work was going on. It was informed to her that the said room was purchased by the owner of Arabia Hotel. When the complainant contacted said Islam Varalia, he informed her that the said room has been purchased by him from the present applicant and he has paid the amount of Rs.27 lacs towards consideration. When the complainant contacted the present applicant and enquired with him about the aforestated fact, the applicant threatened her with dire consequences and asked her to keep mum. The complainant subsequently stated that Smt. Shahida and the applicant by committing criminal breach of trust, have prepared bogus documents, agreement for sale, affidavit and other documents and have also forged her signature and sold the said property to Islam Varalia. In the premise the FIR is lodged.

3 The learned Counsel for the applicant submitted that there is delay of about six months in lodging the FIR. He submitted that as a matter of fact the applicant has paid Rs.27 lacs to the complainant, however, the complainant is now demanding more amount and due to which she has lodged the present FIR. He further submitted that the complainant has executed various documents such as affidavit, sale deed and receipts pertaining to the payment. He submitted that the present offence related with documents and therefore the custodial interrogation of the applicant is not necessary. He therefore prayed that pre-arrest bail be granted to the applicant.

4 I have perused the papers of investigation. The Notary who has notorised various documents of the applicant and the complainant has categorically stated in his statement that the present applicant was present at the time of notorisation of the documents, however, he was unable to tell whether complainant was present or not. The witness Islam Varalia has categorically stated that he has paid the valuable consideration for the said room to the present applicant in the presence of other two witnesses.

5 It appears from the record of the investigation that the documents allegedly signed by the complainant are fabricated and the signature of the complainant is forged one. It is to be noted here that the complainant, an old lady has been duped for more than Rs.27 lacs. The said amount is to be recovered from the applicant who as per the investigation has committed the present crime. It is apparent from record that the applicant is the perpetrator of the present crime and the custodial interrogation of the applicant is very much necessary to unearth the truth behind the crime, so also to recover the amount defalcated by him.

6 After taking into consideration the facts of the case, serious allegations against the applicant and the gravity of the offence, in my opinion this is not a fit case to grant pre-arrest bail to the applicant. The application is accordingly dismissed.

(A.S. GADKARI,J.)