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

CRI. ANTICIPATORY BAIL APPLICATION NO. 84 OF 2017

Chandulal Bhanushali	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

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Mr. Satya Prakash Sharma a/w. Ashok Asthana, Advocate for the Applicant.

Ms. Veera Shinde, APP for the Respondent-State.

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CORAM : PRAKASH D. NAIK, J.
DATE : JUNE 14, 2017.

P.C. :

This is an application for anticipatory bail. The applicant is apprehending arrest in connection with C.R.No.235 of 2016, registered with Powai Police Station, Mumbai for the offences punishable under Sections 420, 465, 467, 468 and 471 read with Section 34 of the IPC.

2 The prosecution case is that the complainant had approached the estate agent Shri Chandulal Bhanushali (applicant) with a view to procure the premises on leave and licence basis. It is further alleged that the applicant had showed

him room no.6 in building no.4 Ekta Vikas Society, J.V. Link Road, Powai. It was represented that the said room belongs to one Dinesh Mistry and cash deposit of Rs.2,00,000/- was obtained from the complainant. The agreement was executed on 26nd September, 2014 in the name of Dinesh Mistry being purported owner of the said premises. After the licence period was over, the complainant was required to vacate the premises and, therefore, he demanded refund of Rs.2,00,000/-, which was handed over to the applicant by the complainant for keeping the premises on leave and licence. However, the said amount was not refunded to the complainant. It is further alleged that one Jamil Ahmed approached the complainant and informed him that he is the owner of the premises and Dinesh Mistry has no concern with the said premises. In view of this, the FIR was registered with the aforesaid police station.

3 Learned advocate for the applicant submits that he had no clue that Dinesh Mistry is not owner of the said premises as he represented to him that he is the owner of the said premises. He, further submitted that the amount of Rs.2,00,000/- was handed over to Shri Dinesh Mistry and applicant had only acted as a broker in the said transaction. The applicant had preferred an

application for anticipatory bail before the Sessions Judge which was rejected by order dated 28th December, 2016.

4 During the course of investigation, the co-accused Dinesh Mistry was arrested by the police. Learned APP pointed out that there are several cases registered against Shri Dinesh Mistry. It was also pointed out that during the course of investigation, it was revealed that an amount of Rs.2,00,000/- which was accepted as a deposit from the complainant was ultimately handed over to Shri Dinesh Mistry.

5 Considering the aforesaid circumstances, the applicant deserves to be granted protection under Section 438 of the Cr.P.C. Admittedly, the amount was handed over to Shri Dinesh Mistry. It is apparent that Shri Dinesh Mistry is in habit of committing such crimes and had represented the complainant that he is the owner of the premises.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Anticipatory Bail Application No.84 of 2017 is allowed;

- (ii) In the event of arrest of the applicant in connection with C.R.No. 235 of 2016 registered with Powai Police Station, Mumbai, the applicant may be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or more sureties in the like amount;
- (iii) Applicant is directed to report Powai Police Station, Mumbai once in a week on every Saturday between 11.00 a.m. to 1.00 p.m., till the filing of the charge sheet;
- (iv) Criminal Anticipatory Bail Application is disposed of.

(PRAKASH D. NAIK, J.)