

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

ANTICIPATORY BAIL APPLICATION NO.350 OF 2017

Adinath Bhujaballi Kuchanur

.... Applicant

versus

State of Maharashtra

... Respondent

.....

- Mr.S.R. Borulkar, Advocate i/b. Ajit M. Savagave, Advocate for the Applicant.
- Mr.Rajan Salvi, APP for the State/Respondent.
- Mr.Ganesh Misal, Advocate a/w Mr.Gaurang Jhaveri, Advocate a/w Mr.Amey Deshpande, Advocate for the complainant.
- PSI – Mr.S.S. Kale, Shivaji Nagar Police Station, Pune).

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 03rd MARCH, 2017.

P.C. :

1. This application is moved for pre-arrest bail by the applicant/accused as the applicant/accused apprehends arrest n C.R.No.315/16 for the offences punishable under sections 420, 465, 466, 467, 468, 471 of the Indian Penal Code of Shivaji Nagar Police Station, Pune. The offence is registered at the instance of Lalitkumar Bhikamchand Chhaged on 07/12/2016.

2. It is the case of prosecution that one Lalitkumar Bhikamchand Chhajed, who is the partner of M/s Vardhaman Developers, Promoters and Builders alongwith brother have constructed a building namely Ratnadip Colony, at Thane. The applicant/accused has purchased a flat for Rs.25,00,000/- in the year 2010. Possession of the flat was given to the applicant/accused. However, thereafter the applicant/accused started canvassing against the complainant and his partnership firm. He also threatened that the flat given to him was not as per the specifications and the construction of the building is of sub-quality. The complainant succumbed to the pressure and apprehending dis-reputation accepted proposal given by the applicant/accused that the said flat was to be purchased by the complainant for Rs.40,00,000/-. Accordingly, the complainant paid him Rs.20,00,000/- by the Demand Draft and Rs.20,00,000/- by cheque.

3. Thereafter after accepting said amount, he did not handed over the possession and did not enter into Deed of

Cancellation, but he demanded further amount of Rs.80,00,000/- and threatened them that otherwise he would give public notice in the newspapers declaring M/s Vardhaman Developers, Promoters and Builders as fraud. Therefore the complainant went to the police station and gave complaint. They also filed Arbitration Proceedings No.4/2014 before the retired District Judge, Pune, which was decided in favour of the complainant. Despite of the said decision he did not hand over the possession of the said flat nor he entered into the Deed of Cancellation. Instead he filed Miscellaneous Civil Appeal No.826/15 before the District Judge.

4. The complainant appeared in the appeal and received the copies of the said appeal in July 2016. When he was going through the papers of appeal, he found that the agreement to compensate dated 10/03/2014 and letter issued by M/s Vardhaman Developers, Promoters and Builders were the forged documents. No such agreement was executed by him or his brother and no letter was issued by M/s Vardhaman Developers,

Promoters and Builders in favour of the applicant/accused. All the contents of the said agreement of compensation and the said letter were false and bogus. However, he was busy in approaching High Court as Arbitration Appeal was filed by the applicant/accused before the High Court. Therefore he could not lodge criminal complaint against the applicant/accused. But thereafter it was lodged on 07/12/2016. Hence this application for pre-arrest bail by the applicant/accused.

5. The learned counsel for the applicant/accused submitted that the applicant/accused is innocent. He has not committed any offence, much less the offence of forgery, cheating. He pointed out that the applicant/accused has initially given complaint on 12/06/2016 prior to the present complaint against the complainant and his firm, which is registered at C.R.No.327/16 with Vakad Police Station, Pune, for the offences of cheating and forgery under MOFA. The learned counsel further submitted that the applicant/accused has not committed any forgery. He further submitted that the firm of the

complainant was never given permission from the Corporation of the construction of 7 storied building i.e. Ratnadip Colony. But unauthorisedly 7 storied building is constructed. No case of forgery in respect of Court records is to be filed, as no such cognizance can be taken by the police and private person in respect of record which is allegedly forged and filed before the Court, as it is barred under section 195 of Cr.P.C.

6. The learned prosecutor opposed the application. He produced the order passed by the High Court on 16/11/2016 in Arbitration Appeal (ST) No.29420/16 alongwith Civil Application No.59/16, wherein the learned Sessions Judge has observed that prima facie the signature of the Arbitrator is fabricated and had falsely contended that the impugned award was rendered in favour of the appellant i.e. applicant/accused by the Arbitrator and which compelled the Arbitrator to file the police complaint against the appellant. The learned prosecutor relied on a statement of retired District Judge and Arbitrator Mr.Arun Chintaman Bacchav in the said Darkhast

No.1535/14, wherein he disowned his signature and stated that his signatures are forged.

7. Considered the submissions made by the learned counsel for the applicant/accused and the learned prosecutor. Perused the papers placed before the Court. There is offence of blackmailing, cheating and forgery. The amount of Rs.20,00,000/- was paid by the Demand Draft and Rs.20,00,000/- was paid by cheque by the complainant to the applicant/accused. On query it is submitted by the learned counsel for the applicant/accused that the said amount was paid to the applicant/accused to quit and hand over the possession of the flat. However, it appears that it is not done till today. Moreover, the submissions of learned counsel for the applicant/accused that such complaint of forgery in respect of Court records cannot be given and no cognizance can be taken by the police as it is Court record and only that Court can take cognizance or directions to take steps, are baseless. The offence at present pertains to the documents which are received by the

complainant in the stay of appeal which was furnished to him by the accused. Thus, those papers which are furnished to him are forged and therefore these are copies i.e. his record and therefore that is not the Court record.

8. In view thereof no anticipatory bail can be granted to the applicant/accused and his application for anticipatory bail stands rejected.

9. The application stands disposed of accordingly.

(MRIDULA BHATKAR, J.)