IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.430 OF 2017

Manisha Rohidas Kumbhar …Applicant

Versus

1. The Sr. Police Inspector
Dighi Police Station, Haveli, Pune

2. The State of Maharashtra …Respondents

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Mr. Mateen Abdul Rahim Shaikh for the Applicant.
Ms.S.S.Kaushik, APP for the State-Respondent.
Mr.Mahendra Kadam, API, Dighi Police Station, Pune (present)

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CORAM: MRS. MRIDULA BHATKAR, J.
DATE: 10th MARCH 2017

P.C.:

1. This application is moved for pre-arrest bail as the applicant-accused apprehends arrest in C.R.No.34 of 2017 registered with Dighi Police Station, Pune for the offences punishable under sections 420 and 406 of the Indian Penal Code. The offence is registered at the instance of Mrs.Jayashree Ramesh Patil.

2. It is the case of the prosecution that the complainant wanted to buy land. On enquiry, she came to know about the applicant-

accused through her milkman. In October 2015, the applicant-accused informed the complainant that one plot at Dighi admeasuring 1400 sq.ft. is available and it was fixed for Rs. 10,50,000/-. The complainant gave Rs. 40,000/- by cash to the applicant-accused for the said transaction. On 1st December 2015, she gave a cheque of Rs. 7,50,000/- of Punjab National Bank and thus she has paid total amount of Rs. 7,90,000/- to purchase the said plot. However, at that time, the applicant-accused told the complainant to wait as the Government is going to measure the said plot. In July 2016, when the complainant visited the said plot, she found that some construction was done on the said plot. On enquiry, the applicant-accused informed the complainant that the owner Mr. Talera wanted to sell the said pot immediately and so the applicant-accused would give her another plot. The complainant met Mr. Talera and Mr. Talera said that he would give another plot admeasuring 500 sq.ft. However, she did not like that plot and she demanded repayment of Rs. 7,90,000/- from the applicant-accused, who told her that she would find out another plot. Thereafter, the complainant waited for four months. However, the applicant-accused neither took further steps nor she repaid the amount to the complainant. After persuasion, the applicant-accused issued a cheque of Rs. 2,00,000/- on 26th December 2016 in the name of the complainant's husband Ramesh Nana Patil and when it was deposited, the said cheque was bounced. Thereafter, the applicant-accused subsequently issued two cheques of Rs. 1,55,000/- and Rs. 2,50,000/- on 29th December 2016 and 14th February 2017 respectively. When these two cheques were presented in the Bank, they were not credited with endorsement that the payment was stopped by drawer and therefore, the complainant approached the police, pursuant to which the offence is registered on 27th February 2017 with Dighi Police Station.

3. The learned counsel for the applicant-accused has submitted that the applicant and the complainant are good friends and both have decided to purchase the plot. However, the applicant-accused is a victim of the circumstances. He has further submitted that this is an offence under section 138 of the Negotiable Instruments Act and as per the notice given by the complainant dated 10th January 2017, she is going to file a complaint under section 138 of the Negotiable Instrument Act.

4. The learned APP, on instructions, submits that the Investigating Officer has taken instructions from Mr. Talera that no money was paid to him by the applicant-accused and no transaction has ever taken place between the applicant-accused and Mr. Talera.

5. Perused the F.I.R. *Prima facie*, there was an intention to cheat right from the inception of the transaction. The plot which was identified was sold out by Mr. Talera to somebody else. There was construction on the said plot and the applicant-accused did not bother to contact and communicate this development to the complainant. The applicant-accused had issued three cheques, but the same were not credited. In view of this, I am not inclined to grant bail to the applicant-accused and hence it is rejected.

6. Anticipatory Bail Application is rejected accordingly.

(MRIDULA BHATKAR, J.)