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

ANTICIPATORY BAIL APPLICATION NO.1683 OF 2016

Sachin Suresh Dhuri

..Applicant.

Vs.

The State of Maharashtra

..Respondent

Mr. B.K. Barve with Mr. Sandeep B. Barve, Archana Lad, Santosh Wagh
i/b B.K. Barve & Co., for Applicant.

Mr. Ajay Patil, APP for State.

CORAM: A.S. GADKARI, J.

DATE : 29th March 2017.

P.C.

1] The applicant is apprehending arrest in CR No.207 of 2016 dated 19.7.2016 registered with Byculla Police Station, Mumbai under Sections 465, 467, 468, 471, 420, 120(B) read with Section 34 of IPC and now being investigated by G.B.C.B, CID, Unit No.III, Mumbai having re-numbered as CR No.56 of 2016.

2] The First Information Report is lodged by Smt. Samina Lahorwala. It is the prosecution case that, the complainant got acquainted

with the applicant through her brother-Shabbir Khambata. That the complainant was in search of a house. Applicant represented her that he is having good influence with the people from MHADA Authority and he will be able to procure a suitable premises for her. It was also informed to the complainant that the entire transaction will be effected in cash. Accordingly, the applicant along with other persons showed the premises of Smt. Karuna Gandhi bearing Room No.802, bearing CS No.103, Shivdas Chapshi Marg, Mazgaon, Mumbai. The applicant thereafter paid Rs.5 lakh in cash to the applicant. That the applicant along with other accused persons thereafter further represented the complainant and made her to believe that some further properties will also be made available to her. The complainant thereafter from time to time paid further Rs.42 lakh to the applicant. When the complainant insisted upon documents of the premises, the applicant took her to the co-accused Nitin Gaikwad who was then working as a bodyguard of the then Minister of Housing Development. That it was informed to the complainant that certain amounts have also been paid to co-accused Nitin Gaikwad. When the complainant made persistent enquiries with the applicant and other accused persons about documentation of the premises, the applicant showed her documents namely General Power of Attorney, Agreement of Sale and Affidavit-Cum-

Declaration sworn by Smt. Karuna Gandhi. Despite lapse of substantial period, when the applicant and the said Nitin Gaikwad were unable to comply with their obligation, the complainant got suspicious about their bonafide. Applicant and other co-accused did not repay the amount and dodged the complainant from time to time. In the premise the first information report is lodged.

3] The learned Counsel for the applicant submitted that there is a substantial delay in lodging the FIR and after lapse of about five years the first information report is registered which creates doubts about its bonafide. He submitted that the brother of the complainant namely Shabbir Khambata and the applicant were having financial transactions inter se and with a view to settle the score, the complainant has been put-forth to lodge the first information report. He submitted that the affidavit-in-reply filed by the Investigating Officer clearly mentions that the co-accused Nitin Gaikwad has been arrested by the police and relevant documents and some cash have been recovered by the police. He submitted that as far as the present applicant is concerned, nothing is to be recovered as the documents in question are already seized by the police. He submitted that the police are aware about the name and addresses of the Notary and the Advocate who have put their seal on the alleged documents and the applicant has

only introduced the complainant with Nitin Gaikwad and has no active role to play in the present crime. He therefore prayed that the applicant may be released on anticipatory bail.

4] I have perused the record annexed to the application and the affidavit-in-reply filed by the Investigating Officer regarding investigation carried out by the police till date. It is abundantly clear that the applicant since inception represented the complainant that he is having contacts and/or good relationship with the officials from the MHADA Authority and he will be able to give her residential premises situated in Mumbai for valuable consideration. That the applicant has accepted huge amounts from the complainant from time to time by promising her that he will give her residential premises. It is the applicant who has showed the aforesaid premises belonging to Smt. Karuna Gandhi to the complainant. It further reveals from the first information report that for a considerable period the applicant was successful in dodging the complainant either from giving her the possession of the residential premises or repaying the amount accepted by him. That the complainant believed that since the applicant was in acquaintance with her brother, he will do the needful and therefore with a sanguine hope, she was persuading applicant and hence there is delay in lodging the first information report. According to me the delay has been

resulted in view of the peculiar facts of the present case and it is neither intentional nor deliberate. The record pertaining to the present crime reveals that the aforestated documents of property belonging to Smt. Karuna Gandhi which were shown to the complaint are forged and fabricated documents. The seals of Notary and the signature of Advocate on the said documents prima facie appears to be forged and fabricated. The Police are yet to recover the seals which were put on the documents by the concerned Notary. It is the specific case of the prosecution that, it is the applicant who in connivance with co-accused fabricated those documents. There is substantial amount involved in the present crime which is yet to be recovered. That only a part of amount has been recovered from the co-accused Nitin Gaikwad. In these circumstances, it is necessary for the police to unearth the entire truth behind the said crime, creation of bogus documents and recovery of the bogus seal of the Notary and the same is not possible without the custodial interrogation of the applicant. In view thereof the custodial interrogation of the applicant is imperative and without which the Investigating Agency will not be able to proceed to unearth the entire truth behind the crime.

5] After taking into consideration the serious allegations against the applicant, gravity of the offence and need for custodial interrogation of

the applicant, this Court is of the view that the applicant do not deserve to be protected by way of pre-arrest bail. There are no merits in the application and is accordingly dismissed.

(A.S. GADKARI,J.)