

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.157/2016

Shri Suhas S/o Ratnakar Morey

..Vs..

The State of Maharashtra, through Police Station Officer, Police Station,
 Ambazari, Tah. and Distt. Nagpur

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders of directions
 and Registrar's orders

Court's or Judge's orders

 Shri A.K. Bhangde, Adv. for the applicant.
 Shri V.R. Thakre, A.P.P. for the respondent / State.

CORAM : Z.A.HAQ, J.

DATE : 14.6.2017.

Heard.

The applicant, apprehending arrest in crime registered against him for the offence punishable under Sections 420 and 406 of the Indian Penal Code, has sought pre-arrest bail. The accusations against the applicant are that he has defrauded the complainant by not executing the sale deed of plot and then inspite of assurance to return the amount, he has not returned the amount paid by the complainant.

The learned Advocate for the applicant has submitted that the accusations made against the complainant do not make out offence for which the crime is registered against the applicant and it will be a civil dispute, if at all it can be considered as a dispute. To support the submission, learned Advocate has placed reliance on the judgment given in the case of *P. Shravan Kumar & Anr. V/s. State of Karnataka* reported in **2016 ALL M.R. (Cri.) 4492 (S.C.)** and the judgment given in

the case of *Rakesh Baban Borhade V/s. State of Maharashtra & Anr.* reported in **2015 ALL MR (Cri) 395 (S.C.)**. It is argued that during the pendency of the present application, the applicant has shown *bona fides* by paying Rs.7,91,000/- to the complainant and considering this fact the prayer of the applicant for grant of pre-arrest bail may be granted. The Advocate for the applicant has referred to the judgment given in the case of *I. Glaskasden Grace and others V/s. Inspector of Police and Another* reported in **(2009) 12 SCC 769** to urge that while granting pre-arrest bail any onerous condition cannot be put on the applicant.

By order passed on 23rd March, 2016 this Court granted interim protection to the applicant. On 11th April, 2016, statement was made on behalf of the applicant that amount of Rs.7,91,000/- would be arranged within a week. The order dated 20th October, 2016 records the statement made on behalf of the applicant that amount of Rs.7,91,000/- is paid to the complainant and the applicant had assured to pay remaining amount to the complainant within one month from that date. The order dated 28th November, 2016 records that the applicant sought 4 weeks' time to pay the amount of Rs.3 Lakhs. The order dated 13th January, 2017 records that the applicant further sought 45 days' time to pay the amount of Rs.3 Lakhs. Time was granted to the applicant, however, considering his earlier conduct a note of caution was recorded that if the amount is not paid within time, the interim protection granted earlier

shall stand vacated. The order dated 2nd February, 2017 shows that none appeared for the applicant and nothing was placed on record to show that the amount was paid, therefore, the application was dismissed. The applicant filed application seeking restoration of the main application on which notice came to be issued on 16th February, 2017. The order dated 17th April, 2017 records that 10 days' time was sought on behalf of the applicant to deposit the amount of Rs.3 Lakhs. The applicant has not deposited the amount.

Considering the nature of accusations and facts of the case, judgments relied upon by the Advocate for the applicant are not of assistance to the applicant. Taking into account the conduct of the applicant and the facts of the case, I am not inclined to grant the prayer made in the application. The application is **dismissed**.

The applicant enjoyed interim protection from 23rd March, 2016 till 2nd February, 2017 on which date the application was dismissed. After the applicant filed application seeking restoration of main application this Court issued notice, however, the interim protection granted earlier was not restored. The applicant continued to evade arrest though there is no protection by this Court. The applicant shall surrender within one week, failing which his conduct may be taken note of at all subsequent stages of the proceedings.

JUDGE