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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 760 OF 2018

Dilip Sheth .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Sumant Deshpande h/f. Mr. S. N. Pathak, Advocate, for the Applicant
Mrs. Rutuja Ambekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.04.2018

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks pre-arrest bail in connection with C. R. No. 611 of 2017 registered with the Andheri Police Station, Mumbai, for the alleged offences punishable under Sections 120B, 420, 465, 467, 468, 504, 506 r/w 34 of the Indian Penal Code.

3. Perused the papers including the statement of the Complainant – Sopan Kalidas Kadam. According to the Complainant, in

March, 2014, Jitendra Gupta and his friend – Nitesh Lotankar met him and disclosed to him about one S. R. A. Scheme for project affected persons and the quota of flats alloted to them. The said persons also disclosed to the Complainant that one Mrs. Geeta Landage, was working as a technical assistant in the Maharashtra Minister's office. Accordingly, Jitendra Gupta and Nitesh Lotankar took the Complainant to meet Mrs. Geeta Landage in Sagar Hotel, Sahar Road, Andheri (E), Mumbai. It is alleged by the Complainant, that Mrs. Geeta Landage told him that there was a quota of flats available for project affected persons and that there was a quota of flats which were available for ministers, artist and physically handicapped people. She further disclosed that the said flats were cheaper than the market rates and the transaction in the scheme was by cheque / online. Mrs. Geeta Landage is also alleged to have told the Complainant that she had made such flats available to several people and that payment for the said flat would have to be made in instalments; that she was working for 400 flats of MHADA, SRA and MMRDA and that she would get documents such as, Agreement, Annexure II, Allotment letter and Possession letter as & when required; that the Complainant would have to pay money after receiving the said documents and that initially, an amount of Rs. 5,00,000/- would have to be paid for preparing the said documents; Mrs. Geeta Landage assured that the entire transaction would be complete within one year and that if the Complainant wanted to cancel the transaction, then he would get his money back within 15 days, after the N.O.C. was delivered. Mrs. Geeta Landage is further alleged to have told the Complainant to meet Jitendra Gupta and Nitesh Lotankar for further transaction and assured the Complainant that she would make a flat available either at Pratiksha Nagar or Bimbisar Nagar. Accordingly, Jitendra Gupta and Nitesh Lotankar took the agreement dated 12.04.2014 and four cross cheques of Rs. 5,00,000/- alongwith the said Agreement. According to the Complainant, after waiting for a year, when he contacted Mrs. Geeta Landage, she disclosed that she was preparing the documents. On 03.08.2015, Mrs. Geeta Landage asked the Complainant to give a cheque of Rs. 50,000/- to Jitendra Gupta and accordingly, the Complainant handed over the said cheque. When the Complainant asked about the flat, Mrs. Geeta Landage told him that some more time would be required as the Government had changed and so also the officers. In January, 2016, Mrs. Geeta Landage called the Complainant to Shivam Hotel, Sahar Road, Andheri (E), Mumbai and introduced him to one Dilip Sheth (Applicant). She disclosed that as she was busy, she could not meet him and hence, the payments would have to be made to Dilip Sheth (Applicant) and that he would take care of all further transactions. According to the Complainant, both, Mrs. Geeta Landage and the Applicant assured the Complainant that within three months, all the documents would be done and the flat would be made available. They also assured the Complainant that if they failed to deliver the flat, the Complainant would be paid back the entire amount with interest in one stroke. The Complainant was asked to pay Rs. 3,00,000/-. The Applicant is alleged to have told the Complainant that he would prepare the agreement and accordingly, the Applicant took a bearer cheque of Rs. 3,00,000/- from the Complainant on 12.02.2016 alongwith 9 passport size photos, one post card size family photo, certified true copy of Aadhar card and ration card. According to the Complainant, the Applicant prepared an agreement between him (Complainant) and 'Omkar Retailers and Developers'. The Applicant is also alleged to have told the Complainant that Kaushal Shah was his partner and was trust worthy and that all further instalments would have to be paid either on his or Kaushal Shah's account by online / NEFT / IMPS. After receipt of payment, the Applicant was supposed to give all the documents i. e. Annexure II, Allotment letter and Possession letter. The Complainant has stated that on receipt of the agreement, the Applicant assured to handover the key of the flat. According to the Complainant, he made a further payment of Rs. 12,70,000/- to Kaushal Shah on the instructions of Mrs. Geeta Landage and the Applicant; that when he asked the said persons to handover the possession of the said flat, the accused gave reasons such as, CC and OC were not obtained; that in April, 2016, Mrs. Geeta Landage called him for inspecting the flat, however, failed to give inspection of the said flat. Mrs. Geeta Landage is also alleged to have told the Complainant to pay Rs. 30,000/- to Jitendra Gupta on 05.07.2016, pursuant to which, the Complainant paid the said amount. According to the Complainant, in September, 2016, he felt that he would not get the flat and hence, asked Mrs. Geeta Landage, the Applicant and Kaushal Shah to return his money. In October, 2016, all the said persons assured to pay back his money within one week with interest and also asked the Complainant to give an N. O. C. to them; that a sum of Rs. 2,80,000/- was refunded by Kaushal Shah by online transfer, however, thereafter, none of the accused returned his money and started avoiding his calls. Investigation reveals that the accused have forged and fabricated documents. It also appears that 20 Possession letters have been forged and fabricated and have been issued to several persons by the accused. The complaint lodged by the Complainant clearly shows the complicity of the Applicant and that the intention of the accused to cheat the Complainant. Considering the facts of the case, custodial interrogation of the Applicant is necessary. Hence, the Application stands rejected.

4. It is made clear that the observations made herein are *prima facie,* for deciding this Application. If an Application for regular bail is filed by the Applicant, the learned Judge shall consider the same on its own merits uninfluenced by the observations made in this Application.

(REVATI MOHITE DERE, J.)