

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

ANTICIPATORY BAIL APPLICATION No. 1067 OF 2018

Mr. Shivmurti S. Naik

....Applicant

Vs.

State of Maharashtra

....Respondents

Mr. Niranjan Mundargi a/w. Mr. Abid Mulani i/b. Mr. Prasanna P. Patil for
Applicant

Mr. S.H. Yadav -APP

Mr. Y.R. Bansode, Hawaldar, Lonavala City Police Station

CORAM : SMT. SADHANA S. JADHAV, J.

DATE: JUNE 5, 2018

P.C.

1. Heard. This is an application filed under Article 438 of Cr.P.C. The Applicant herein is apprehending his arrest in Crime No. 224 of 2017 registered at Lonawala Police Station for the offences punishable under section 420, 406, 504, 506 r/w. 34 of the Indian Penal Code.

2. It is the case of the prosecution that one Dhanraj Jawanmal Bhurat had filed a complaint with the Judicial Magistrate First Class, Wadgaon, Tal Maval, Dist. Pune alleging therein that the present Applicant herein had introduced the complainant to one Shridhan @ Dharam S. Mawari and Sudhir Nakadi and had informed the Complainant that they are builders with good reputation. That

they are reliable parties and that he may invest in their properties. Thereafter, the Complainant had got acquainted with Accused Nos. 2 and 3/ He was assured that in future the said properties in Kalyan Bhiwandi belt would give good returns. The Complainant had booked a flat for Rs.1.80 crores. He had paid Rs.1.30 crores in favour of original accused Nos.2 and 3 i.e. Sagar Manas Construction. In a gist, according to the Complainant, he was cheated by all the three accused. The learned Magistrate was pleased to pass an order under Section 156(3) of Cr.P.C. Pursuant to the said order, Crime No. 224 of 2017 is registered at Lonawala City Police Station against the Applicant.

3. The learned counsel for the Applicant has drawn the attention of the Court to a complaint filed by the Complainant against Dharam S. Mawari with P.I. Lonawala City Police Station on 23rd October, 2017 i.e. prior to filing of the complaint wherein he had disclosed that in the year 2008-2009 he had met with present Applicant at Lonawala and he had accompanied with Mr. Mawari and Sudhir Nakadi and at that time, the present Applicant introduced Accused Nos.2 and 3 to the Complainant and had assured him that it would fetch good return in case he desires to invest with him. The learned counsel for the Applicant has further drawn attention of this Court to the fact that earlier on 8.12.2012 also the same complainant had lodged a report against the present

Applicant and the others and after the investigation, it was noticed that no cognizable offence was made out and, therefore, no report was filed under section 173 of Cr.P.C. It appears that in another complaint lodged by the Complainant, a 'B' Summary Report was filed in favour of the Applicant.

4. Taking into consideration the inconsistent statement of the Complainant and the fact that earlier two attempts to implicate the present Applicant in a false case, the custodial interrogation would not be necessary and the Applicant, therefore, has made out a case for grant of anticipatory bail under section 438 of Cr.P.C. However it is made clear that these observations are prima facie in nature and only restricted to present application filed under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR / discharge application and/or at the time of trial. Hence, the following order:

ORDER

- (i) The anticipatory bail application is allowed.
- (ii) In the event of arrest of the Applicant in Crime No. 149 of 2018 registered at Lonawala City Police Station, Pune, he be enlarged on bail on his furnishing P.R. Bond in the sum of Rs.50,000/- and one or two solvent sureties in the like amount.

- (iii) The Applicant shall report to Lonawala City Police Station as and when called and co-operate with the investigating agency to the best of his capacity.

[SMT. SADHANA S. JADHAV, J.]