

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

ANTICIPATORY BAIL APPLICATION NO.1793 OF 2017

Bharat Mithalal Nagori Applicant
Vs.
The State of Maharashtra Respondent

**WITH
CRIMINAL APPLICATION NO.1074 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO.1793 OF 2017**

Mahendra Manilal Sanghvi Applicant/
Intervener

In the matter between

Bharat Mithalal Nagori Applicant
Vs.
The State of Maharashtra Respondent

Mr. Niranjana Mundargi i/by Mr. Pankaj Jagannath Das for the Applicant.

Mr. Aniket U. Nikam i/by Mr. Aashish Satpute for Intervener
Mr. S.R. Agarkar, APP for the State.
Mr. Vinod S. Jadhav, Havildar Khadak Police Station, Pune City.

**Coram : Smt. Sadhana S. Jadhav, J.
Date : 6th February, 2018**

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.283 of 2017, registered at Khadak Police Station, Pune, for the offences punishable under Sections 406, 420, 467, 468, 471 Indian Penal Code.

3 It is the case of the prosecution that Crime No. 283 of 2017 is registered on the basis of a private complaint filed by Mahendra Manilal Sanghvi in Criminal Miscellaneous Application No. 2337 of 2017. On 11th June, 2017, the learned Magistrate had issued directions under Section 156(3) Cr.P.C. It is the case of the complainant that the complainant and his family members had booked flats in a housing complex i.e. Isha Zenith. They had paid Rs.92,05,000/- to the applicant and the applicant had agreed to pay interest @ Rs.9% per annum in the eventuality that the proposed flats are not handed over to the complainant. An agreement was executed to that effect on 21st April, 2011. According to the complainant, he had not received any money from the applicant. Similarly, he had not received the flats also, which according to him were booked with the applicant. The complainant and others insisted

upon the return of the amount. However, it was revealed that the applicant had sold four flats to Prince Kumar Singh, Rajshree Taparia, Ashok Somani and Mohit Agrawal. The same flats which were booked by the complainant. The complainant had realised that he had been cheated. The applicant had returned some portion of the amount, however, the remainder of Rs.16,76,470/- remained unpaid, hence, he was constrained to lodge F.I.R. It is the case of the applicant that the complainant is a money lender. He extends the loan under the pretext of purchasing flats. It is submitted that the applicant has deposited the interest by making cheque payments in favour of the complainant and at present the applicant is being implicated in a false case.

4 Perused the papers of investigation. Upon perusing accounts statement of Nitin Manilal Sanghvi as well as Manisha Nitin Sanghvi, it is more than clear that the applicant had deposited the interest on loan. It appears that there is a case of civil dispute between the parties and hence the applicant deserves to be protected by this Court.

5 However, it is made clear that the observations made hereinabove are prima facie in nature. The learned Sessions Court shall not be influenced by the above observations at the time of hearing the application for discharge or quashing of FIR or at the

time of trial. The same be decided on its own merits. Hence, the following order is passed :

ORDER

- 1 The application is allowed and disposed of.
- 2 In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bonds in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- 3 The applicant shall report to the police station as and when called.
- 4 The Intervention Application is heard, allowed and disposed of.

(*Smt. Sadhana S. Jadhav, J*)