IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICICPATORY BAIL APPLICATION NO.2248 OF 2018

Gulshan Pindidas Mehra .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Rajendra J. Rathod, Advocate for the Applicant.
Mr.A.R. Kapadnis, APP for the Respondent – State.
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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 30, 2018.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.199 of 2018, registered with Mira Road Police Station, Thane Gram, for the offences punishable under Section 420 read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged on 22nd May, 2018 by Smt. Sushma Thakur. It is the case of the prosecution that the complainant was in need of residential premises and she was in search of the same in Mira Road area. She came in contact with the applicant through other accused. Applicant was shown a flat in Bhairav Residency, whereby the

complainant agreed to purchase the same for a consideration of Rs.1,11,50,000/-. Complainant was asked to deposit an amount of Rs.25,33,280/-, by cash as a token amount, which was handed over by the complainant to the accused. However, inspite of receipt of money, no agreement was executed in respect to the flat premises. Complainant demanded her money, which was paid in cash. Accused nos. 2 and 3 had returned sum of Rs.4,00,000/-, by cheque and cash and the applicant gave a cheque of Rs.20,00,000/-. Said cheque was dishonoured.

3 Applicant contended that the complainant has not produced any evidence of depositing the amount, as alleged in the FIR. Complainant had agreed to purchase the flat at Rs.1,11,50,000/-, however, she did not deposit the consideration. The complainant paid earnest amount of Rs.4,00,000/- and the balance amount was not deposited by her. Thereafter, the agreement of sale of the flat premises was not executed with her. The amount which was deposited by the complainant has been returned to her. It is submitted that in the absence of any evidence to support the complainant's case about deposit of the huge amount, the applicant may not be subjected to custody. It is submitted that the custodial interrogation of the applicant is not necessary.

4 Learned APP submitted that the applicant has induced the complainant to part with huge amount. Applicant has played a vital role in the transaction. Applicant had handed over cheque for an amount of Rs.20,00,000/-. If the amount is not paid by the complainant, there was no reason for the applicant to hand over the cheque for the said amount. Learned advocate for the applicant, however, submitted that the cheque was handed over to the complainant by way of security. Learned APP submitted that the applicant had executed Memorandum of Understanding (MOU) with the complainant. It is, therefore, prayed that the application be rejected.

5 On perusal of the FIR, it is apparent that the applicant had played a major role in the fraudulent transaction. Complainant was induced to part with huge amount. There was no reason for the applicant to issue cheque of Rs.20,00,000/-, which was dishonoured. Applicant had represented himself to be the investor in the premises. The entire transaction was dubious. It is apparent that the Title Deed in respect to the said flat premises were not brought by the accused while executing the deal with the complainant. It is not clear as to who is the owner of

the said flat premises. Admittedly, an amount of Rs.4,00,000/- was handed over by the complainant to the co-accused. Applicant had handed over the cheque of Rs.20,00,000/-. It is fortified that there was a transaction between the accused and the complainant. Considering the aforesaid circumstances, no case for grant of anticipatory bail is made out. Hence, Anticipatory Bail Application No.2248 of 2018, is rejected.

(**PRAKASH D. NAIK, J.)**