

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.50 OF 2019
WITH
CRIMINAL APPLICATION NO.53 OF 2019

Rajesh Harishchandra Pandey

Applicant

versus

The State of Maharashtra

Respondent

Mr.Rajarathnam Baddam with Sejal Shah I/by SR Lex for applicant.

Mr.Prashant Jadhav, APP, for State.

Mr.Arun K. Rajput for intervenor.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th January 2019

PC :

1. This is an application for anticipatory bail in connection with CR547 of 2018 registered on 18th August 2018 with Dahisar Police Station for offences under Section 406 of Indian Penal Code.

2. The case of complainant is that the applicant had entered into an agreement for sale with the complainant in respect of his property for a consideration of Rs.84,00,000/-. Pursuant to that agreement the complainant has paid Rs.5,10,000/- by cheque and Rs.70,000/- was transferred through net banking and Rs.14,00,000/- were paid in cash. It is further alleged that the accused had mortgaged the said property with the bank. As the transaction with the complainant was not completed, the FIR was lodged.

3. Learned counsel for applicant submitted that there is no proof of payment by cash. It is also submitted that the dispute is of civil nature. The applicant had issued notice to the informant for

cancellation of agreement as the informant had violated the condition of agreement. The complainant was aware that the property was already mortgaged with the bank. Nothing is to be recovered from the applicant.

4. Whereas, it is contended by the prosecution that the amount is to be recovered from the applicant. The applicant has not co-operated in the investigation. In spite of receipt of amount, the applicant has not completed the transaction. Learned counsel for intervenor has also opposed the application for anticipatory bail. It is submitted that the applicant had also given an undertaking signed by him stating that he would repay the principle expenditure of Rs.24,27,500/-. Learned counsel for applicant, however, denied the genuineness of the undertaking dated 27th March 2018. He has also denied his signature appearing on the said document. However, on perusal of the said undertaking it is apparent that the stamp paper was purchased in the name of applicant. Learned APP submitted that during the course of investigation the statements of two witnesses have been recorded by police which confirms the fact of payment of Rs.14,00,000/- in cash by complainant to the applicant.

5. On perusal of the investigation papers and the submissions made by learned counsel for parties, it is apparent that there is sufficient evidence to show involvement of the applicant. Hence, no case for grant of anticipatory bail is made out. Therefore, Anticipatory Bail Application No.50 of 2019 is rejected.

(PRAKASH D. NAIK, J.)

MST