

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

ANTICIPATORY BAIL APPLIATION NO.236 OF 2019

Amol Mokind Sonawane
Vs.
State of Maharashtra

.. Applicant

.. Respondent

Mr.Aditya A. Gore, Advocate for the Applicant.

Mrs.G.P. Mulekar, APP for Respondent – State.

Mr.Vasant Devkate, API, Bhandup Police Station, Mumbai, present.

CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 28, 2019.

P.C.

This is an application for anticipatory bail in connection with C.R.No. 396 of 2018, registered with Bhandup Police Station, Mumbai, for the offences punishable under Sections 406 and 420 read with 34 of Indian Penal Code ("IPC", for short).

2 Applicant had preferred an application for anticipatory bail before the Sessions Court, which has been rejected vide order dated 6th January, 2019.

3 The case of the prosecution is that the applicant alleged to have received Rs.17,00,000/-, from the informant for providing a flat in the building constructed by Neel Yog

Construction at Ghatkopar, Mumbai on 3rd floor admeasuring 425 square feet area. The total consideration was fixed at Rs.38,00,000/-. Remaining amount of Rs.21,00,000/-, was to be paid at the time of possession. In the year 2015, the building was constructed, however, the applicant has allegedly sold the flat to some other person. The informant demanded his money, the applicant then issued two cheques of Rs.2,00,000/- and Rs.2,50,000/-, and also agreed to pay the balance amount. The cheque for an amount of Rs.2,00,000/- was honoured and the other cheque of Rs.2,50,000/-, was dishonoured. Thereafter, the applicant avoided to make the payment of the said amount and hence First Information Report ("FIR", for short) was lodged on 26th October, 2018

4 Learned counsel for the applicant submitted that the entire dispute relates to the documents and custodial interrogation of the applicant is not necessary. The transaction was of 2017, and, the complaint is filed belatedly. There is no proof of parting the amount as alleged by the complainant. It is further submitted that the applicant is ready and willing to pay an amount of Rs.2,50,000/-, to the complainant.

5 Learned APP, submitted that that Memorandum of Understanding ("MOU", for short) was executed between the applicant and the informant on 25th October, 2013, wherein, the

applicant had admitted to have received Rs.17,00,000/-. It is the case of the prosecution that the applicant has returned the amount of Rs.2,00,000/- and remaining amount has not be returned to the complainant. Learned APP also submitted that the persecution relied upon the video clipping with regards to the payment received by the accused. It is further submitted that MOU is signed by the applicant. The applicant, however, denies to have signed the MOU. Learned APP submitted that the signature appearing on MOU matches the signature of applicant appearing on his statement recorded by police.

6 The MOU was signed between the complainant and applicant on 25th October, 2013. The applicant has issued two cheques, out of them one cheque has been dishonoured. The fact that the applicant has issued cheques fortifies that there was transaction between the applicant and the complainant. The MOU and the other evidence collected by the investigating agency shows the complicity of the applicant in the crime. Hence, considering the aforesaid circumstances, no case for grant of anticipatory bail is made out. Anticipatory Bail Application stands rejected.

(PRAKASH D. NAIK, J.)