IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 328 OF 2019

Azhar Yar Mohammad Khan ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Prashant D. Patil for the Applicant

Mr. A. R. Kapadnis, A.P.P for the Respondent-State

PSI Mr. Babu Ganpat Khatpe from APMC Police Station, is present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 1st JULY 2019

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 254 of 2018 registered with the D. N. Nagar Police Station, Mumbai, for the alleged offences punishable under Sections 406, 420 of the Indian Penal Code and under Section 3 of the Maharashtra Ownership Flats Act.

3 Perused the papers. According to the complainant, the applicant misrepresented to him that he was the Power of Attorney Holder of the owners of the premises- Uttam Rama Patil and Shrikant Rama Patil and that said persons, had given him, the right to sell three out of the five shops. According to the complainant, pursuant thereto, he paid a sum of Rs. 13,55,000/- to the complainant, from time to time, however, the applicant refused to give him possession of the shops. The complainant has further alleged that subsequently, he learnt that the owners of the said premises were Uttam Rama Patil and Shrikant Rama Patil, pursuant to which, he lodged the aforesaid complaint.

4 Learned A.P.P states, on instructions, that during the course of investigation, it has transpired that the applicant had forged the signatures of the original owners-Uttam Rama Patil and Shrikant Rama Patil on the Power of Attorney, which is annexed to the aforesaid application. The said Power of Attorney is on page 20 of the said application. Learned A.P.P states that appropriate sections will be applied in the said case i.e. for fabrication of documents. He further submits that there is one antecedent as against the applicant, which is similar in nature.

5 Perused the papers. On 22nd April 2019, during the course of arguments, learned counsel for the applicant, on instructions, had submitted that without prejudice to the applicant's rights and contentions, the applicant was ready and willing to deposit a sum of Rs. 13,55,000/- with the Registry of this Court, pursuant to which, the applicant was granted interim protection. The applicant, however, failed to deposit the said amount, pursuant to which, the interim relief was vacated on 26th June 2019. It appears that the applicant has forged the signatures of Uttam and Shrikant (owners), on a purported Power of Attorney given by them, to him. It appears that on the basis of the said Power of Attorney, the applicant sold one shop to the applicant by a registered Agreement to Sell for a sum of Rs. 13,55,000/- and accepted Rs. 13,55,000/- from the complainant, from time to time.

6 Considering the aforesaid, the applicant's custody is necessary to investigate as to how the said Power of Attorney was executed. Considering the *prima facie* material against the applicant, application is rejected.

7 It is made clear that the observations made herein are *prima facie*, and if an application for regular bail is filed, the trial Court shall decide the same on its own merits, in accordance with law, uninfluenced by the observations made in this order or rejection of this application.

8 Application is disposed of accordingly.

REVATI MOHITE DERE, J.