

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 666 OF 2019

Sanjay Bhalchandra Agarkar	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Ms.Sudha Dwivedi for Applicant.
Ms.J.S. Lohokare, A.P.P. for Respondent-State.
Mr.Santosh Kamble, API, Tilak Nagar, Police Station, Mumbai.

CORAM : A.S. GADKARI, J.

DATE : 15th March 2019.

P.C. :

1] This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in connection with C.R. No. 213 of 2018 dated 09/06/2018 registered with Tilak Nagar Police Station, Mumbai, for the offence punishable under Section 420 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the respondent-State. Perused the chargesheet.

3] The first information report is lodged by Mr.Kamlesh D. Chavan.

It is the prosecution case that, the informant was in search of a house and therefore, he contacted one agent, namely, Mr.Swaroop. In due course of his business Mr.Swaroop was acquainted with the applicant and other accused persons. The informant impressed upon the applicant, that he is working in Mantralaya and is in a position to give a flat from the Chief Minister's Quota to the informant. The applicant and other accused persons also painted rosy pictures before the informant and induced him to part with a sum of Rs.59,40,000/- towards purchase of a flat from the Chief Minister's Quota. The informant did not receive possession of the agreed flat. Despite persuasion, the accused persons neither gave the said agreed flat nor returned the amount paid by the informant. That the applicant issued certain cheques in favour of the informant which on presentation have been dishonored. The informant subsequently realized that the applicant and the other persons by promising him to give a flat from the Chief Minister's Quota have duped him to the tune of Rs.59,40,000/-. In the premise, the present crime is registered.

4] The learned counsel for the applicant submitted that the applicant is working as a 'driver' with some officer in Mantralaya and he never induced informant to part with money or promised him to give a flat from the Chief Minister's Quota. It is submitted that the cheques which were given by the applicant to the informant were towards some other monetary transaction. She, therefore, prayed that the present application may be allowed and the applicant may be protected by pre-arrest bail.

5] At the outset, it is to be noted here that the applicant is unable to substantiate his claim pertaining to the alleged 'some other monetary transaction' with the informant for which he has issued the cheques which have been dishonored on presentation. As per the contention of the learned counsel for the applicant, the applicant is working as a driver in Mantralaya and *prima-facie* it is difficult to believe that the applicant will issue cheques approximately amounting to Rs.60,00,000/- in favour of the informant.

6] May that as it may, the record of investigation indicates that there are two other similar victims to whom the applicant and co-accused, by pretending that they are able to give them flats from the

Chief Minister's Quota induced to part with huge amounts and have defalcated it.

7] Undoubtedly, the allegations against the applicant that, he pretended the victims that, he is capable of giving flats from the Chief Minister's Quota is a serious allegation and requires thorough investigation by the police. The applicant has accepted huge amounts from the victims in that behalf. The said investigation is not possible without the applicant being custodial interrogation by the police. The police will have to unearth the entire racket, if at all operating within the precincts of Mantralaya and the officers if any from the Mantralaya indulging into cheating the gullible needy flat purchasers.

8] After taking into consideration the gravity of the offence, serious allegations against the applicant and the need of custodial interrogation, this Court is of the view that, the applicant does not deserve to be protected by pre-arrest bail. The Application is, accordingly, rejected.

[A.S. GADKARI, J.]