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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1669 OF 2018

Ateeq Yunus Malik Sayyad ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Uday Warunjikar i/b. Pravartak Pathak for the applicant.

Mrs. S.S. Kaushik, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 16, 2019

P.C.:-

Heard learned counsel for the applicant and learned
APP for the State.

2. In crime No.I-123/2018 for offence punishable under sections 420 of the Indian Penal Code and section 13(A) of the Maharashtra Ownership of Flat Act, 1963 ('MOFA') registered with Khandeshwar police station, District Raigad, the applicant is seeking pre-arrest bail.

3. Learned counsel for the applicant submits that there exists a genuine dispute between the complainant and the applicant as regards the location of ownership of the property where the flat was promised to the complainant on consideration of about Rs.60 lakhs. According to him, after obtaining the permission for development from the Gram Panchayat, the property in question was developed. The applicant has shown his *bona fides* by offering alternate property to the complainant. That being so, according to him, custodial interrogation of the applicant is not warranted.

4. Learned APP opposed the claim on the ground that the very title of the applicant was under cloud as the land is owned by tribals. Apart from above, it is demonstrated from record that no permission was granted by the Gram Panchayat for use of the land or for permanent construction. Apart from the fact that it is the Collector and the Grampanchayat who is a planning authority.

5. Having considered the rival submissions and available material, there is sufficient material to infer the satisfaction of ingredients of section 420 of the Indian Penal Code particularly

when the applicant, having received consideration for transfer of developed property, was unable to hand over the same in any manner. The very sanction for development and other permissions are found to be forged / illegal resulting in authority demolishing entire structure.

5. That being so, no case for grant of pre-arrest bail is made out. The application is rejected.

(NITIN W. SAMBRE, J.)