

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2359 OF 2018

Sanjay Bhalchandra Agarkar ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

Ms.Alpa Javeri for Applicant.

Ms.J.S. Lohokare, A.P.P. for Respondent-State.

Mr.Vijay Gore, API, Worli Police Station, Mumbai is present.

CORAM : A.S. GADKARI, J.

DATE : 22nd April 2019.

P.C. :

1] The applicant is apprehending arrest in connection with C.R. No.I-101 of 2018 dated 09/04/2018 registered with Worli Police Station, Mumbai, for the offence punishable under Section 420, 465 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 record of investigation.

3] The applicant was granted interim relief by an Order dated 16th November 2018 by the 'Vacation Court' without hearing the matter

on merits and only on the ground that, the applicant was earlier protected by the Sessions Court by way of interim relief.

4] The first information report is lodged by Dr.Vishwasrao P. Deshmukh.

The prosecution case in brief is that, the applicant represented the informant so also witness, by name, Dr.Shashikant Kumbhar that, the applicant is having acquaintance with the officers in Mantralaya and the residential tenements from 5% Quota allotted to the Chief Minister of Maharashtra will be made available to them at a reasonable price. Believing in the representation made by the applicant, the informant paid total sum of Rs.48,56,000/-, out of which the applicant repaid sum of Rs.25,00,000/-. The witness, namely, Dr.Kumbhar has parted with Rs.55,00,000/- in favour of the applicant. The applicant subsequently neither gave the agreed premises from the Chief Minister's Quota nor returned balance amount to the informant and the amount accepted from the witness, namely, Dr.Kumbhar.

5] It appears from the record that, the applicant is a habitual offender and by adopting similar modus-operandi, i.e. luring gullible flat purchasers by making representation that, residential premises from the

Chief Minister's Quota are available for sale, accepted money and has duped many people.

6] This Court in an application preferred by the applicant for pre-arrest bail bearing ABA No.666 of 2019 after considering the modus-operandi adopted by the applicant and the gravity involved in the crime of similar nature, has rejected the application by Order dated 15th March 2019.

7] Today, the learned APP submitted that, in the said crime i.e. C.R. No.213 of 2018, dated 09/06/2018 registered with Tilak Nagar Police Station, Mumbai, the applicant has already been arrested.

The Hon'ble Supreme Court in the case of *Narendrajit Singh Sahni and another Vs.Union of India and Others*, reported in (2002) 2 SCC 210, has held that, any application for pre-arrest bail under Section 438 of the Code of Criminal Procedure is not maintainable once the accused is arrested and already inside the prison for cognizable offence in another crime.

8] In view thereof, the present application first of all is not maintainable and secondly, after taking into consideration the gravity of the offence and serious allegations against the applicant, this Court is of

the considered view that, thorough investigation and interrogation by police is must in the present crime, as the applicant has represented the informant and the witness that the residential premises from 5% quota allotted to the Chief Minister of Maharashtra are available for sale and the applicant is having access to the same.

9] In view thereof, the application is rejected.

[A.S. GADKARI, J.]