

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 434 OF 2020

Anil R. Tiwari

....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Navin R. Tiwari, Advocate for the applicant.

Mrs. J.S. Lohakare, APP for the State.

PI, Mrs. Shireesh M. Idekar, Govandi Police
Station present.***CORAM : SANDEEP K. SHINDE, J.******Monday, 24 February, 2020.*****P.C. :**

1. Apprehending arrest in Crime No.9/2020 registered with Govandi Police Station under Sections 420, 406 of the Indian Penal Code, the applicant is seeking pre-arrest bail.

2. Perused the FIR and affidavits filed by the applicant in support of his contention that, he had repaid Rs.70,00,000/- to the complainant.

3. Complaint is officer bearer/trustee of St. Gregorious Educational and Medical Trust. This trust had paid Rs.70,00,000/- to the applicant by two cheques; first for RS.50,00,000/- on 21st August, 2017 and second of Rs.20,00,000/- on 11th September, 2017. This amount was received by the applicant towards his charges for de-reserving the plot, bearing CTS No.616/2 which the Trust had acquired but could not develop because of the reservation. It appears since 2017, the applicant neither could vacate the reservation, nor returned the money to the complainant-Trust. It is admitted fact that, the cheques issued by the complainant as aforesaid were credited to the Account of M/s. Om Enterprises, a proprietary concern of the accused. As against this, the applicant contends that, entire amount has been returned in presence of two persons and in support thereof, has filed an Affidavit of Lalji Ojha and Mr. Prashant Laxman Gaikwad. The learned APP has produced case diary for perusal which shows that, Prashant Laxman Gaikwad had refused to co-operate with the investigation.

4. Be that as it may, the fact remains, if the applicant had received Rs.70,00,000/- by cheques, applicant being prudent businessman would not return it in cash and that too without explaining the source of cash.

5. I have perused the case diary. It shows, these two witnesses are neither co-operating nor they were available/found at the addresses given by the complainant. Moreover, in absence, of probable source of huge cash amount which he allegedly paid to the trust, in my view, to conclude investigation, custodial interrogation cannot be denied to the prosecution. The Anticipatory Bail Application is rejected.

6. It is made clear that observations made hereinabove shall be construed as expression of opinion only for the purpose of refusal to grant bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)