IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.48 OF 2021

Lawrence Gabriel Miranda,
Age 46 years, Occ.Writer,
r/o.Room No.2, 1st Floor, Sagar Sangam Bldg;
Near Bandra Bus Depot, Bandra (W),
Mumbai-50. Applicant
versus
The State of Maharashtra Respondent

Adv.Snehal Chaudhari i/by Maharashtra Law Juris, Advocate for the applicant.
Mrs.M.R.Tidke, APP, for the Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 4th March 2021

PC :

1. The applicant has preferred this application for bail in CR No.100 of 2020 registered with Ghatkopar Police Station for offences under Sections 406, 420 r/w 34 of Indian Penal Code. The applicant is arrested on 1st August 2020.

2. The case of prosecution is that the complainant is resident of Ghatkopar, Mumbai. Her uncle is residing at Malad West, Mumbai. Her aunt Sudha Sharma, their son Sudhir Sharma, Sujit Sharma and Hetal Dave are residing with them. Sudha Sharma frequently visits the residence of complainant. She had informed that she has good relationship with the officers from MHADA who provide room from MHADA authorities. She knows an agent from MHADA office Mr.Lawrence Miranda (applicant) and with his assistance she has

provided room premises to several persons at concessional rate. On 17th August 2019 Sudha Sharma had visited their house. At that time she informed that building is being constructed by MHADA at Marol, Mumbai. One BHK flat is available for Rs.12 lakh. The complainant believed her words since she was her aunt. The complainant agreed to part Rs.12 lakh for purchasing the room. On 28th March 2019 complainant's cousin Sudhir Sharma informed her to transfer an amount of Rs.4 lakh into the account of Sudha Sharma at Axis Bank. Since the complainant was not having sufficient funds, she informed her sister Jyoti Sharma to transfer the amount into the account of Sudha Sharma. Hence Jyoti Sharma transferred Rs.4 lakh into the account of Sudha Sharma. At that time Sudhir Sharma informed the complainant that account of Sudha Sharma is locked and hence she should sent e-mail to Axis Bank stating that this amount pertains to family loan. Hence the e-mail in that regard was forwarded to bank. On 15th September 2019 Sudha Sharma had visited the house of complainant. She informed that amount of Rs.4 lakh has been parted to officers from MHADA and Rs.8 lakh will have to be deposited. The complainant informed her that she would transfer Rs.8 lakh. Sudha Sharma again informed that her account is locked and hence cash amount will have to be parted to MHADA officers. On 24th September 2019 Sudha Sharma visited the house of complainant for collecting money. The complainant withdrew Rs.5 lakh from account of her mother and collected the cash of Rs.3 lakh from the house and parted the said amount to Sudha Sharma. The complainant was informed that possession of room will be given by 15th November 2019. In the event she does not get the possession, the amount will be returned to her. On 27th September 2019 Sudha Sharma visited the house of complainant. She stated that MHADA officers are demanding further amount of Rs.6 lakh. If the amount is paid, possession will be handed over immediately. The complainant borrowed the amount from her relatives and friends and gave it to Sudha Sharma. The complainant did not get possession of the room. Sudha Sharma gave evasive answers. She demanded amount from Sudha Sharma. On 2nd October 2019 Sudha Sharma introduced the complainant with agent Lowrence Miranda (applicant). The applicant informed the complainant that possession will be handed over within few days. If the MHADA officers do not provide room, both of them will return the amount. The applicant handed over blank cheque to the complainant and informed her that in the event she do not get possession of room, the cheque can be deposited by filling up the amount of Rs.6 lakh. The complainant did not get possession of the room nor the amount. The complainant then visited the house of Sudha Sharma. They picked up quarrel with complainant. They avoided to return the amount. Sudha Sharma handed over three cheques of Axis Bank. On the next day complainant was called at home by the accused. Her cousin Sudhir Sharma outraged her modesty. Complaint was lodged with Police Station. Neither the premises was handed over nor the amount was refunded to the complainant. Hence the FIR was registered on 5th February 2020.

3. The applicant was arrested. Investigation was completed and charge sheet is filed. The applicant preferred an application for bail before the Court of learned Magistrate. The said application was rejected by order dated 18th August 2020. The applicant thereafter preferred application for bail before Sessions Court which has been rejected by order dated 18th September 2020.

4. The applicant preferred second application for bail before the Court of Sessions which has been rejected by order dated 22nd December 2020.

5. Learned advocate for applicant submitted that applicant is in custody from 1st August 2020. Charge sheet is filed. The complainant had parted amount to Sudha Sharma. The role attributed to the applicant is that he is agent of MHADA office. False representations were made by the co-accused to the complainant. The applicant has been falsely implicated in this case. He is not the beneficiary of the transaction The co-accused Sudha Sharma did not represent to the complainant that amount has been parted to the applicant.

6. Learned APP submitted that applicant was acting in connivance with the co-accused Sudha Sharma. The complainant was cheated by all the accused. The applicant had made false representations to the complainant. He had handed over blank cheque to the complainant.

7. From the tenor of the FIR it is apparent that representations about availability of room premises in MHADA building were made by the co-accused. The amount was transferred into the account of co-accused. The applicant was allegedly the agent from MHADA. The investigation is completed. Charge sheet is filed. Further custody of the applicant is not necessary. Hence, case for grant of bail is made out.

8. Hence, I pass following order :

ORDER

(i) Bail Application No.48 of 2021 is allowed;

(ii) The applicant is directed to be released on bail in connection with CR No.100 of 2020 registered with Ghatkopar Police Station on furnishing PR bond in the sum of Rs.25,000/- (Rs.Twenty Five thousand only) with one or more sureties in the like amount;

(iii) The applicant shall report concerned police station once in a month on every first Saturday between 11.00 am to 1.00 pm till further orders;

(iv) The applicant is permitted to furnish provisional cash bail security in the sum of Rs.25,000/- for a period of eight weeks in lieu of surety;

(v) Bail Application stands disposed of accordingly;

(vi) Parties to act on authenticated copy of order.

(PRAKASH D. NAIK, J.)

MST