

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

BAIL APPLICATION NO. 240 OF 2021

Dayashankar Bagwatiprasad Dubey	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. Rakesh Singh, Advocate for the applicant.
 Mr. Y. M. Nakhwa, APP for the Respondent – State.
 Mr. A. S. Pandey, Advocate for the Intervenor.
 Mr. Vedpathak (API) Goregaon Police Station, Present.

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	23rd MARCH, 2021

PER COURT:

1. This is an application for bail in C.R. No. 56 of 2020 registered with Goregaon Police Station, Mumbai for offences under Sections 417, 418, 419, 420, 406, 465, 467, 120-B r/w Section 34 of Indian Penal Code (for short “IPC”). The FIR was registered on 25th January, 2019. The applicant was arrested on 24th May, 2019.

2. The case of the complainant is that he is the owner of two Galas situated at Jogeshwari (W) which are let out on rental basis. He knows Santosh Yadav and since last 15 years he was acting as an agent. On 8th April, 2018, Santosh Yadav met the complainant and told him that one shop is available for sale and the owner of the shop is Julai Munshi (applicant). On 9th April, 2018 Santosh Yadav

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took the complainant to shop No.7, at Brahmdin's Chawl, Valbhat Road, Goregaon (East). Suresh Yadav was introduced to him. He is son of Julai Yadav. Suresh Yadav and Santosh Yadav showed him the property at shop No.7 which was like by the complainant. It was represented that the documents of property are with Julai Munshi Yadav and he is the resident of Uttar Pradesh. On 12th April, 2018, Suresh Yadav and Santosh Yadav brought as an aged person before the complainant and introduced him as Julai Munshi Yadav. The complainant had a discussion with him and it was decided that shop would be sold for an amount of Rs.17 Lakhs. Thereafter, the complainant parted the amount of Rs.17 Lakhs. Subsequently, false documents were prepared. It was revealed that the accused have cheated the complainant. The applicant was not owner of the shop premises.

3. Learned counsel for the applicant submitted that the applicant is in custody from 24th May, 2019. Investigation is completed and the charge-sheet is filed. The trial has not commenced. The applicant is senior citizen aged about 75 years.

4. Learned APP submitted that the applicant has played active role in the transaction. He represented himself as owner of the premises which was to be sold to the complainant. Learned APP

pointed out the statement of witnesses. More particularly, statement of Ramnath Dubey. Specific overt act has been attributed to the applicant. Loss of Rs. 17 Lakhs was caused to the complainant.

5. Learned counsel for the intervenor made similar submissions. It is submitted that it was pre-planned act committed by the accused with an intention to cheat the complainant. He was made to part with an amount of Rs 17 Lakhs. Only on the ground that the applicant is senior citizen, bail should not be granted to the him.

6. The applicant is senior citizen aged 75 years. He is in custody almost for a period of about 2 years. Investigation is completed and the charge-sheet is filed. The offences are triable by the Magistrate. Considering the factual aspects of the case, further detention of the applicant is not necessary. Case for grant of bail is made out.

ORDER

- (i) Criminal Bail Application No. 240 of 2021 is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No. 56 of 2020 registered with Goregaon Police Station, Mumbai on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall report concerned Police Station

once in three months on the first Saturday of the month between 11.00 a.m. to 1.00 noon till further order;

(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) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)