

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

BAIL APPLICATION NO. 751/2021

Akhtar Ali Yusuf Idrisi

.....Applicant

V/s.

The State of Maharashtra

....Respondent

* * * *

Mr. Rajendra Rathod, Advocate for the applicant.

Mr. H.J. Dedhia, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Tuesday, 10th August, 2021.

P.C. :

1. Heard learned Counsel for the applicant and learned APP for State.

2. The applicant seeks his enlargement on bail in connection with Crime No.100/2019 registered at Kalyan Police Station for the offence punishable under Section 420 of the Indian Penal Code. Applicant was apprehended on 1st March, 2019. Investigation is over and chargesheet has been filed. It culminated into Regular Criminal Case

No.334/2019, wherein, prosecution has examined Lukmaan Rizwan Khan as its witness. The offence is triable by the Magistrate.

3. The learned Counsel for the applicant, submitted that, applicant is in custody since more than 29 months and in the prevailing circumstances, trial is not likely to conclude in the near future, however, applicant's presence for trial can be secured by imposing conditions. On these grounds, he seeks bail.

4. Mr. Dedhia, learned Prosecution has taken me through the chargesheet, wherefrom it is manifest that, the applicant, had entered into agreements with fifteen persons to sell a tenement in 'Ajmeri Chawl' at Kalyan, knowing fully well that he had no right to construct the tenements nor he had requisite permissions from the Local Planning Authority. This itself, shows that, since inception of the transaction, he had intention to cheat the purchasers. After selling tenements, Kalyan Municipal Corporation has issued notices to the occupants of 'Ajmeri Chawl', since the land underneath the 'Ajmeri Chawl', was required for constructing the ring road. Whereafter, the occupants were called upon to vacate their respective tenements. When

they enquired, they came to know that the applicant and the co-owner had no right and/or authority either to construct and/or to sell the tenements in the Ajmeri Chawl nor they were the owners of the land. On this premise, they filed the complaint. Whereafter the subject crime came to be registered. Although, there is a dependable evidence collected by the investigating agency which clearly shows applicant's complicity in the crime, but the fact remains that, applicant has been incarcerated for about thirty months for the offence of cheating.

5. Thus, in view of the facts of the case, in my view, a case is made out for releasing the applicant on bail. For the reasons stated above, the application is granted on the following conditions :

ORDER

(i) The applicant arrested in Crime No. 100/2019 registered at Kalyan Police Station, shall be released on bail on executing P.R. bond for the sum of Rs.50,000/- (Rs.Fifty Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer i.e. second and fourth Monday of each month between 11:00 am. to 1:00 p.m. till the conclusion of the trial and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The application is disposed off in the above terms.

7. The learned Counsel for the applicant, assures that, if the occupants of the 'Ajmeri Chawl' are compensated by the Municipal Corporation, he shall not claim any interest or right in the compensation, if any, awarded by the Corporation.

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

(SANDEEP K. SHINDE, J.)

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