

PMB

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

ANTICIPATORY BAIL APPLICATION NO.354 OF 2018

Navin S. Bhanushali .. Applicant

vs.

The State of Maharashtra and anr. .. Respondents

Mr. Mahesh Vaswani a/w Mr. Asutosh Shukla, Dharini Nagda, Shreya
Tiwari, Pranjali Desai for the Applicant.

Mr. N.B. Patil, APP for the State.

Mr. Rohan Sawant a/w Bhavana Umredkar for Original Complainant/
Intervener.

CORAM : M.S.KARNIK, J.

DATE : AUGUST 30, 2021

P.C.

Heard learned counsel for the parties.

2. The complainant registered First Information Report against five accused. The four other accused who are released on pre-arrest bail by the order dated 18.08.2021 were partners in respect of the partnership firm concerned. The complainant was also a partner. Certain disputes arose between the partners in respect of the monies due and payable to the complainant and it was alleged that some of the partners have misappropriated the partnership proceeds. Accordingly, MECR No.1 of 2017 came to be registered with the Ghatkopar Police Station under Sections 406, 420, 466, 467, 468, 471, 506(2) read with 34 of the Indian Penal

Code at the instance of the complainant. The partners referred their dispute to arbitration. A settlement was arrived at. This Court by an order dated 18.08.2021 granted pre-arrest bail to the four other partners in view of the settlement and the award of the Arbitrator. The complainant also supported the stand that the dispute has been settled *inter se* the partners.

3. So far as the present application is concerned, it is alleged by the complainant that a flat valued at Rs.2,11,00,000/-, was sold by one of the partner on behalf of partnership firm to the Applicant- Navin S. Bhanushali (Accused No.5) in the said MECR No.1 of 2017 for a sum of Rs.95,03,820/- including stamp duty and registration. It is the allegation that only a sum of Rs.5,00,000/- was paid from the said transaction to the complainant. The remaining amount was retained by the other partners and hence misappropriation is alleged. The other grievance is that in front of at least two witnesses, it was agreed that the said flat would be sold to the Applicant by the partnership firm for a consideration of Rs.2,11,00,000/-. The sale is obviously under valued to the detriment of the complainant and with a view to deprive him of his rightful share is the allegation.

4. As indicated earlier, the complainant has already settled the dispute with the other partners and even the award is passed by the Arbitrator which is accepted by all the partners. So far as the transaction regarding the sale of flat is concerned, primarily the

allegations are against the partners who have since been granted pre-arrest bail pursuant to the settlement between the complainant and the partners. There is no dispute that an amount of Rs.95,03,820/- has been paid by the Applicant for purchase of the flat to the partnership firm through one of the partners. It is the contention of learned counsel for the Applicant that the ready reckoner indicated the market value of Rs.94,00,000/- and therefore it cannot be said that the transaction is under valued.

5. In my opinion, considering that the partners have been released on pre-arrest bail and as the main dispute is regarding settlement of accounts between the partners, in the present facts the custodial interrogation of the Applicant is not required. Learned counsel for the Applicant submitted that the Applicant is willing to file an undertaking in this Court that in respect of the flat No.504, 5th Floor, Parvati Heritage CHS, Cama Lane, Ghatkopar (West), Mumbai -86, the same will not be sold, disposed of, possession parted with or otherwise dealt with in any manner during the pendency of the MECR No.1 of 2017 registered with the Ghatkopar Police Station without the leave of this Court. The statement is accepted. The undertaking to that effect be filed by this Applicant within a period of one week from today in this Court with an advance copy to the learned counsel for the complainant.

6. Hence, the following order :-

ORDER

(i) In the event of the arrest of the Applicant in respect of MECR No.1 of 2017 registered with the Ghatkopar Police Station, the applicant be enlarged on bail on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer as and when called.

(iii) The undertaking as indicated earlier be filed within a period of one week from today. In terms of the undertaking the flat in question not to be disposed of, alienated, possession parted with or otherwise dealt with without express leave of this Court or the Trial Court in the event the chargesheet is filed.

7. The Anticipatory Bail Application is disposed of.

(M.S.KARNIK, J.)

Digitally
signed by
PRADNYA
MAKARAND
BHOGALE
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