

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

CRIMINAL BAIL APPLICATION NO. 882 OF 2020

Gaurav Dinesh Soni	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Satyavrat Joshi, for the applicant.
Smt. A.A. Takalkar, APP for the State/Respondent.
PN 7610 and PC 8938 Swargate Police Station, Pune
present.

CORAM: SARANG V. KOTWAL, J.
DATE : 8th FEBRUARY 2021

P.C. :

1. The applicant is seeking his release on bail in connection with C.R. No. 429 of 2018 registered at Swargate Police Station, Pune, under Sections 406, 409, 415, 420, 423, 504, 506 read with Section 34 of the Indian Penal Code.

2. Heard Mr. Satyavrat Joshi, learned Counsel for the applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The applicant is in custody since 01/11/2019. The investigation is over and charge-sheet is filed.

4. The FIR is lodged by one Rajesh Mohanlal Rathod. He has stated in his FIR that he is in the business of supplying building materials. In 2015, the informant's son Darsh introduced him to the main accused Nikhil Kankulole. The said accused requested the informant to supply material on credit. He told the informant that they could have somebody who stood as a guarantor in these transactions. The informant went to Nikhil's house. One Pramod Nahar took the responsibility of that transaction. The informant provided material worth Rs. 3 crores 50 lakhs between April and July 2015. Nikhil paid some amount but the amount of Rs. 2 crores 50 lakhs was outstanding. Nikhil's uncle Pramod Nahar and Nikhil did not repay that amount inspite of repeated requests and demands made by the informant. Nikhil told the informant that he had sold the material to the present

applicant. The informant met the present applicant. The applicant, in turn, told the informant that he had sold the material to one Nitin Karia and Samidh Karia. He also assured the informant that as soon as he received the payment, he would pay the informant. The informant waited for some period but since he did not get his money, he gave complaint firstly to the Commissioner of Police on 24/05/2016. Thereafter, the applicant and Nikhil entered into an MOU with the informant on 14/06/2016. The applicant and Nikhil had accepted that the outstanding amount would be paid to the informant by 21/07/2017 with 24% interest. However, even this MOU was not honoured and therefore the informant lodged this FIR.

5. Shri Joshi learned Counsel for the applicant, relied on two orders passed by the Sessions Court granting anticipatory bail to Pramod Nahar and Nikhil Kunkulol. He submitted that they were the persons who had first induced the informant to part with the money. If

they are granted protection of anticipatory bail, there was no reason as to why the applicant should be denied relief of bail. He claimed parity on behalf of the applicant. He submitted that in any case, it was a civil dispute for which an MOU was already entered into. The informant had an option of getting orders from Civil Court in compliance with that MOU.

6. Learned APP submitted that the applicant has purchased a flat from the amount which he derived through this transaction. She further submitted that the investigating agency has informed the Sub Registrar not to permit transfer of that property.

7. I have considered all these submissions. As rightly pointed out by Shri Joshi, the other two main accused whose role are even more serious than the present applicant, are protected by orders of anticipatory bail passed by the Sessions Court. Applicant's role is lesser. The applicant at the first instance had not made

any representation directly to the first informant.

8. The allegations that applicant has benefited from the transaction and has purchased a flat through this ill gotten wealth, is taken care of by the investigating agency by prohibiting further transaction of that property. Thus the property is secured. The applicant is in custody since 1/11/2019. His further custody for investigation purpose is not necessary. The trial is likely to take a long time even to commence. There are antecedents against the present applicant of similar nature. Therefore, some conditions are required to be imposed on the applicant. Therefore, I am inclined to grant bail to the present applicant.

9. Hence, the following order :

ORDER

- (i) In connection with C.R. No.429 of 2018, registered with Swargate Police Station, Pune, the Applicant is directed to be released on bail on his

furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

- (ii) The applicant shall attend the concerned Police Station every fortnight for a period of one year from today.
- (iii) It is clarified that this order will be restricted to C.R. No. 429 of 2018, registered with Swargate Police Station, Pune and it shall not affect other proceedings against the present applicant.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)