

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

ANTICIPATORY BAIL APPLICATION NO. 1083 OF 2019

Robin Elish	...Applicant
Versus	
The State of Maharashtra	...Respondent

None for the Applicant.

Ms. P. P. Shinde, A.P.P for the Respondent – State.

P.I – Sandesh Kenjale, Vikhroli Police Station, Mumbai, is present.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd AUGUST, 2021

P.C. :

1. None for the applicant.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No.170 of 2018, registered with the Vikhroli Police Station, Mumbai, for the alleged offences punishable under Sections 420, 406, 467, 468, 471, 504, 506 r/w 34 of the Indian Penal Code.
3. Learned APP has tendered a copy of the order dated 11th June 2018, by which co-accused – Suresh Tiwari, was granted interim protection as well as the order dated 26th July 2018, passed by this Court, confirming the interim order dated 11th June, 2018.

4. Perused the papers. According to the prosecution, the applicant in connivance with other accused induced the first informant/complainant to pay Rs.25,00,000/- under the pretext of giving him two rooms owned by MHADA. It is alleged that co-accused Aasif Rais Qureshi received Rs.6,00,000/- in cash and co-accused Suresh Tiwari received Rs.19,00,000/- by way of cheques. It is alleged that despite receiving payments, the accused persons failed to hand over possession of the said agreed suit property nor returned the amount to the first informant. According to the prosecution, the applicant represented to be an officer of MHADA. This Court whilst granting interim protection vide order dated 13th May 2019 has observed in para 5 as under:-

“5. From the perusal of the material on record, it appears that the co-accused, to whom the first informant was made to deliver the cash amount, had made a representation that the applicant was an officer of MMRDA. It does not seem that the applicant had himself made such a representation. It further appears that vide order dated 11th June 2018, this Court had granted anticipatory bail to one of the accused Mr.Suresh Tiwari, who has deposited the amount of Rs.19 lakhs in the Registry of this Court.”

5. It is not in dispute that co-accused - Suresh Tiwari has deposited Rs.19,00,000/- in the Registry of this Court and his anticipatory bail has been confirmed by this Court vide order dated 26th July 2018. It

appears from the material on record that the applicant himself had not made any such representation that he was an officer of MHADA and that the said representation was made by co-accused - Suresh Tiwari.

6. Considering the aforesaid, custodial interrogation of the applicant is not warranted. Accordingly, the interim protection granted by this Court vide order dated 13th May 2019 is confirmed on the following terms and conditions :-

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount ;

(ii) The applicant shall not tamper with the prosecution evidence and shall not induce or threaten the prosecution witnesses;

(iii) The applicant shall cooperate with the trial Court.

7. The application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.