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

## ANTICIPATORY BAIL APPLICATION NO. 1825 OF 2021

Shri Kishore Lal Chugh ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Manoj Mohite with Mr.Amey Deshpande and Mr.Harsh Nisar for Applicant.
Mr.Sanjeev Kadam with Mr.Suresh Sabrad, Mr.Jeetenndra and Abubakar Patel i/b. JS Legal for Respondent No.2.
Mr.A.R. Kapadnis, APP for the State.

**CORAM : BHARATI DANGRE, J.**

**DATED : 3 SEPTEMBER 2021**

**P.C. :**

The Applicant, who is arraigned as an accused in CR No.253/2021 registered with APMC Police Station on 14 July 2021 which invoke Sections 420, 467, 468 and 471 of IPC, is apprehending his arrest in the said CR, and hence, he has approached this court.

2 The Applicant is a proprietor of M/s. Priyanka International and M/s.Priyadarshini Constructions Builders and Developers, engaged in business of development of land and construction in the area of Navi Mumbai and Raigad. The Applicant has two sons, Ketan Chugh and Rohit Chugh, and his son Rohit is also involved in the business of construction and operate through a partnership firm, M/s.Neeta Constructions. His sons share business relationship with the complainant and the present complaint is a outcome of the said relationship. The

complainant, one Sunil Bhanushali, is also into construction and investment business and by reporting to the police station, the complainant has alleged that the Applicant has prepared a forged settlement deed–cum–declaration on 18 November 2019 and has forged his signature whereby it is projected that the settlement is effected between the two in form of full and final settlement.

The said settlement deed-cum-declaration dated 18 November 2019 contain a recital that Sunil Bhanushali, proprietor/owner of M/s.Shree Sadguru Associates had paid sum of Rs.50 lakhs from the said account as friendly loan to M/s.Neeta Constructions in the year 2016 and in turn, M/s. Neeta Constructions parted with several blank cheques, blank papers, blank stamp papers as security. The deed of settlement declared that the two parties agreed to solve and refund the amount of Rs.50 lakhs to Sunil Bhanushali (complainant) by M/s.Neeta Constructions on the various terms and conditions mutually agreed between them. The foremost stipulation being that on receiving the demand draft of Rs.50 lakhs, the complainant shall return all the agreements, blank documents, blank cheques, blank stamp papers to the Applicant, Kishore Lal Chugh. Another stipulation is that the complainant, his legal heirs or anyone claiming through him will not use or utilize the said papers against either the Applicant or his two sons or any of the firm or company belonging to them. The said settlement deed also contain a reference of the demand draft dated 16 November 2019 drawn upon ICICI Bank in favour of M/s.Shree Sadguru Associates as full and final settlement and the party of the first part, i.e the complainant, acknowledge the receipt of the said demand draft as full and final settlement.

3 This settlement deed-cum-declaration is the bone of contention between the parties. It bear the signature of the complainant (as the executor) and the Applicant (as the executee) in the presence of two witnesses, one Shashi Jha and Ganesh R. Kadam, Advocate. The complainant allege that the said document is fraudulent as he has never signed it and the signature is forged one. During course of investigation, statements of the witnesses have been recorded, who confirm that the complainant had signed the said document but the submission is that the Shashi Jha is employee of the Applicant and it is alleged that the Advocate is also frequently engaged by the Applicant in various proceedings and therefore, their statement cannot be relied upon.

4 Learned Counsel, Mr.Sanjeev Kadam, appearing for the complainant has placed on record an affidavit along with certain documents. According to the complainant, this very forged deed of settlement was placed before the learned Magistrate in a private complaint filed under Section 156(3) of Cr.P.C. by projecting that the document is genuine. Along with affidavit, the complainant has placed on record three documents which are in the form of the Memorandum of Understanding executed between the same parties, i.e. the complainant and the Applicant, and the submissions advanced on part of the complainant is to the effect that payment of Rs.50 lakhs by demand draft as mentioned in the settlement deed cannot be a full and final settlement as there are some other sum of money

which is due and payable to the complainant. The first MOU dated 31 December 2015 is entered with Ketan Chugh who had agreed to sell, assign, transfer and alienate plot No.27 admeasuring 850 sq.mtrs., Taluka Uran, District Raigad for total consideration of Rs.35 lakhs. Accordingly, an amount of Rs.25 lakhs was paid by the complainant by RTGS to M/s.Neeta Constructions and balance amount of Rs.10 lakhs is paid in cash. This MOU contemplated a condition of right to buy-back the plot for consideration of Rs.90 lakhs within a period of 60 days from the date of MOU.

The case of the complainant is that in the month of September 2019, Ketan Chugh expressed his inclination to initiate the buy-back clause and therefore, an MOU was signed between them on 18 September 2019 whereby he guaranteed payment of Rs.50 lakhs by depositing the original documents of title in respect of flat nos.401 and 402, Pleasant View CHS Ltd., Vashi, Navi Mumbai, which were liable to be returned on condition of payment of Rs.50 lakhs, subject to the stipulation that all the payments are ensured on or before 20 October 2019. Two post-dated cheques for repayment of Rs.30 lakhs were also handed over with an assurance that the same would be cleared if deposited after period of 18 months. On 16 November 2019, payment of Rs.50 lakhs was made by RTGS from the account of M/s.Neeta Constructions and the complainant claim that he has returned the original document of title in respect of flat nos.401 and 402 and made further payment of Rs.59,75,000/-. However, an amount of Rs.30,25,000/- is due and payable. Another transaction, which is entered into between the parties, is in respect of commercial shop unit in building located at plot no.104, Ulwe, District Raigad and the Applicant agreed to sell five shops for consideration of Rs.75 lakhs and accordingly, an amount of Rs.50 lakhs deposited by RTGS in the account of M/s.Neeta Constructions and the balance amount was of Rs.25 lakhs was agreed to be paid on execution of agreement for sale in respect of five shops.

5 Learned APP, on instructions, from the Investigating Officer argued that there are two independent transactions, one with the Applicant's son and another with the Applicant himself. But the Applicant has prepared a settlement deed-cum-declaration which only find mention of Rs.50 lakhs whereas the amount due and payable to the complainant is more than the said amount and therefore, there cannot be a settlement deed-cum-declaration which close and finally settle the amount due and payable to the complainant. The accusations against the Applicant are of cheating, forgery of valuable security and using a forged document to be genuine one. The complainant has specifically denied this signature and this document has been projected by the Applicant to be a genuine document.

6 On the last date of hearing, the parties were afforded an opportunity to settle the disputes amongst themselves since it revolve around their relationship into business. Both the respective Counsel state that no settlement is possible.

7 In the wake of the aforesaid circumstances, the custodial interrogation of the Applicant is very much necessary

and therefore, the Application deserves a rejection and is, accordingly, rejected.

**(SMT. BHARATI DANGRE, J.)**