**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 1837/2021**

Anirudh Santosh Gandhi .....**Applicant**
**V/s.**
The State of Maharashtra ....**Respondent**

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Mr. S.V. Marwadi, Advocate for the applicant.

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

PI, Mahesh Jadhav from Rabodi Police Station present.

**CORAM : SANDEEP K. SHINDE, J.**

**Wednesday, 11th August, 2021.**

**P.C. :**

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

2. Applicant seeks pre-arrest bail in connection with Crime No.13/2021 registered with Rabodi Police Station, Thane for the offences punishable under Sections

420, 467, 468, 471, 506, 120(B) read with Section 34 of the Indian Penal Code.

3. Prosecution case in brief is that, the complainant and his wife, were owners of Flats no.801 and 802 on 8th floor of Kaalika Tower, Thane (West), (hereinafter referred to as “the said flats”). Complainant and his son, Ashutosh were in construction business. They had incurred losses in the business. They were in need of loan. One real estate agent, Sanjay Pednekar, introduced them to the applicant, whereupon the applicant had assured the complainant and his son to sanction loan of Rs.1 crore from Axis Bank, Malad Branch. Thereafter, the applicant with the help of Rakesh Patil, employee of AXIS Bank, opened a Account in the name of the complainant and his wife. For that purpose, applicant and Rakesh Patil, took copies of the Aadhar Card, Ration Card of the complainant and his wife. Although all formalities were completed in October, 2017, the loan was not sanctioned. Whereafter applicant returned loan papers to the complainant. After some days, applicant told the complainant that, he could arrange loan from LIC Housing Finance by mortgaging the two flats owned by the complainant and his wife. The applicant represented the complainant that, LIC Housing Finance

may not sanction loan to him, but since his CIBIL (Financial) Score is good, LIC Housing Finance may sanction housing loan to him against the mortgage of two flats. Applicant thus proposed the complainant to execute the 'agreement to sell', of Flats No.801 and 802 in his favour. Applicant proposed and suggested to complainant that, once the loan is sanctioned and disbursed, he can repay the loan in installments over a period of time. He assured, once the complainant repays the loan, he shall execute deed of re-conveyance of Flats No.801 and 802 in his name.

4. In furtherance of this Understanding on 16th November, 2017, complainant executed agreement to sell Flat no.802 in favour of the applicant for consideration of Rs.87,000/- and his wife agreed to sell Flat No.801 to the complainant for Rs.68,00,000/-. Later, two supplementary agreements were executed relating to Flats No.801 and 802 and consideration was enhanced to Rs.1,55,00,000/- in respect of Flat no.801 and in respect of Flat No.802 to Rs.1,20,00,000/-. In other words, the applicant had agreed to purchase both the flats for total consideration of Rs.2,75,00,000/-. Additionally, he agreed to purchase furnitures and fixtures for Rs.14,00,000/-. In December,

2017, LIC Housing Finance sanctioned loan of Rs.2,44,50,000/- to the complainant. Out of it, LIC Finance paid Rs.20,00,000/- to CKP Bank directly to clear its charge on the flats. The balance amount of Rs.2,23,49,000/- was credited to the Account of the complainant at Axis Bank, Malad Branch. It appears, while opening the Account in Axis Bank, applicant and co-accused had also subscribed and obtained mobile SIM in the name of the complainant without his knowledge, for operating the Bank Account. Also address of the applicant (of Malad) was furnished while opening the Account, although the complainant was residing at Thane. At any rate, since complainant did not receive the consideration, although the agreements were executed in 2017-18, he enquired with LIC Housing Finance, about his loan proposal. Whereupon, he was informed that, against Flats No.801 and 802, loan of Rs.2,44,00,000/- was sanctioned and disbursed in December, 2017. In the fact situation, the complainant verified the bank statement. He found the loan amount was credited to his Account in January, 2018 and on the very day, Rs.30,00,000/-, Rs.20,00,000/- and Rs.1 crore were transferred to one Ravi Malhotra, a close acquaintance of the applicant. He found, even thereafter, substantial amount was transferred in the Account of Ravi

Malhotra on 12th January and 16th January, 2018. Ravi Malhotra, is accused no.3. In the circumstances, the complainant filed the FIR, whereafter the crime in question came to be registered against the applicant, his wife, Ravi Malhotra, Estate Agent Pednekar, Rakesh Patil (employee of the Axis Bank) and his son, Ashutosh.

5. Mr. Marwadi, learned Counsel for the applicant, vehemently submitted that the applicant has been falsely implicated in the case. He submitted that, the offence in question was registered on 15th January 2021, however, much before on 12th November, 2020 applicant had filed complaint against Anil Mankame (informant in this case) and others, for cheating him. Mr. Marwadi, while seeking bail would largely rely on complaint dated 12th November, 2020 filed by the applicant against the informant, his family members and Ravi Malhotra. Gist of the complaint is;

(i)Ravi Malhotra was his next-door neighbour.

(ii)He had borrowed Rs.2.00 crores from him in 2017.

(iii) In October, 2017, Ravi Malhotra introduced Ashutosh Mankame (son of informant) to the applicant. Ashutosh was in dire need of money.

He represented that, if the applicant would purchase Flats No.801 and 802 (of informant and his wife), it would help him to clear the dues and further represented that within two years, he would buy back the flats from the applicant at the current market price.

(iv) Ravi Malhotra prevailed over the applicant to purchase the flats and take loan from LIC Housing Finance Ltd.

(v) Bank Accounts of informant and his wife was opened, by Ravi Malhotra in Axis Bank at informant's address.

(vi)Ravi Malhotra disclosed to applicant that, Ashutosh has agreed to pay part of self consideration/loan component to him.

. In the backdrop of the facts stated above, in para-10, the applicant stated;

> "10. In the aforesaid manner after disbursement of the loan amount from L.I.C. Housing Finance Ltd., the loan amount of Rs.2,44,50,000/- (Two Crores Forty Four Lacs and Fifty Thousand only) was transferred to the respective accounts of Opponent Nos.2 and 3. The said Savings accounts of both Opponent Nos.2 and 3 were opened by them in the Axis

Bank, Malad Brach with the help of Mr. Ravi Malhotra, however, Ravi Malhotra gave their address as of my office. It was realized by me later that out of the aforesaid amount the Opponent Nos.2 and 3 had transferred major amount to the account of Opponent No.5 Mr. Ravi Malhotra under their mutual understanding. After purchase of the above property, Mr. Ravi Malhotra had cleared my dues of about around Rs.1 Crore but still I have to receive balance of around Rs.1 crore from Mr. Ravi Malhotra." (emphasis supplied).

6. In my view, the facts aforestated and the complaint dated 12th November, 2020 filed by the applicant against the informant and others, distinctly reveals complicity of the applicant in the crime. It may be stated that, Ravi Malhotra is absconding. In the circumstances, granting pre-arrest bail to the applicant may adversely affect the investigation.

7. For the reasons stated above, no case is made out for granting pre-arrest bail. The application is rejected.

8. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for

the purpose of rejecting bail only and the same shall not, in any way, influence the trial in other proceedings.

**(SANDEEP K. SHINDE, J.)**