IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1107 OF 2020
WITH
INTERIM APPLICATION NO.22 OF 2021

Gautam Tulsi Jashnani .. Applicant
Vs.
State of Maharashtra .. Respondent

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Mr.Niranjan Mundargi i/b. Mr.Vikram R. Sutaria, Advocate for the Applicant.

Mrs.M.R. Tidke, APP for the Respondent – State.

Mr.S.V. Marwadi i/b. Mr.Sandeep Karnik, Advocate for the Intervenor in I.A. 22 of 2021.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 18, 2021.

P.C. :

The applicant is apprehending arrest in connection with C.R.No.32 of 2020, investigated by E.O.W., which was originally registered as C.R.No.346 of 2020 with Juhu Police Station, Mumbai, on 22nd October,2020, for the offences punishable under Sections 406, 467, 420, 423, 467, 468, 471 and 120(B) read with 34 of Indian Penal Code (“IPC”, for short). First Information Report (“FIR”, for short) was registered against the applicant Mahesh Alimchandani, Tulsi Jashnani and Mohan Bhoge and others.

2 The case of the complainant is that he is into the business of oil and conducting his business in the name of company M/s.Kamani Foods Private Limited. He is managing director of the said company. His father is a director. The sister concern of the above company is a partnership firm M/s.Chinmaya Associates in which the complainant is the partner. The father of the complainant and his uncle had incorporated the company named M/s.Kamani Foods Private Limited. For the purpose of investment and sale/purchase of real estate partnership, M/s.Chinmaya Associates was commenced on 1st September, 2010. Initially the complainant and his father were partners. The complainant's sister was married to Tulsi Jashnani. In 2006 Mr.Tulsi Jashnani was arrested in a share trading cheating case. The father of the complainant helped him by depositing the amount for his release from the offence. The complainant's father had spent about Rs.6 crores. In August 2013, Tulsi and Gautam Jashnani (applicant) brought the proposal about the plot of land situated at JVPD Scheme at Juhu. They represented to father of the complainant that the agent Mahesh

Alimchandani is known to them and a plot of land at JVPD Juhu situated at prime location is available for sale. If the said plot is taken on lease and sold or any building construction is carried out, it will fetch good profits. By making this false representations, they won the confidence of the complainant's father. It was also represented that Mahesh Alimchandani is agent for the transaction as well as facilitatory and he has all the rights in respect to the said plot of land. The said plot was described as plot No.19, admeasuring 663.3 sq. meters situated at C.S.T. No.283, Word No.K-8185 Survey No.287 Vile Parle. It was disclosed that Shri Mohan Sitaram Bhogi is the lease holder of the said property for the period of 998 years and he is transferring the lease of land for Rs.32 crores. The plot was shown to the complainant and since it was situated at prime location, it was liked by him. The transaction relating to purchase and sale of plot was commenced by Tulsi Jashnani the applicant. Gautam Jashnani (applicant) was made partner with Chinmaya Associates and Chinmaya Estate. Chinmaya Associates was formed to deal with real estate investment and trading. The father of the complainant, applicant and the relative Gurumukh Sukhwani are the partners of the said firm. The office of the firm was situated at Natha Street, Masjid Bundar, having its account in Bank of India Mandvi Branch, RBI Bank Parel Branch and ICICI Bank BKC Branch. The capital in the said firm was invested by the complainant and his father. Since the complainant and his father were dealing with the trading of oil and were not having experience in real estate business and since Tulsi Jashnani was helped by the complainant's father in the case registered by E.O.W., the complainant felt that he would not cheat them. It was also felt that plot is situated at prime location, hence, it was decided to enter into the transaction. The said transaction was to be executed by applicant and his father Tulsi Jashnani. They provided information to father of the complainant from time to time. It was represented that the documents relating to the plot are with agent Mahesh Alimchandani and the same are verified through advocate. Complainant's father believed the said representation and did not verify the documents. He also did not verify the identity of Mohan Bhogi. Tulsi Jashnani and Gautam Jashnani (applicant) were collecting the amount in respect to the said transaction from complainant's father. Since the applicant was partner, on trust the amount was handed over to him and Tulsi. It was decided that an amount of Rs.5 crores is to be given to Mohan Bhogi and deed of assignment was to be executed. It was also decided that on payment of Rs.5 crores to Mahesh

Alimchandani being facilitator for transfer of shares, after giving balance amount to Mohan Bhogi, the plot was to be transferred in the name of the firm. On 29th January, 2014, deed of assignment was executed between Mohan Bhogi and Chinmaya Associates and it was registered with sub-registrar Andheri. Applicant has signed on behalf of M/s.Chinmaya Associates. The value of the property was shown as Rs.11,23,63,100/-, and consideration of Rs.5 crores was shown. For the purpose of obtaining the plot on lease, the amount was transferred from bank account of M/s.Chinmaya Associates to Mohan Bhogi to the tune of Rs.2,13,50,000/-, vide cheque and RTGS. Mohan Bhogi had given power of attorney to the applicant and his cousin Varun Jashnani. The power of attorney dated 29th January, 2014, was registered with Sub-registrar Andheri for registration of the deed of assignment. Stamp duty to the tune of Rs.56,48,300/-, was paid. After executing deed of assignment for transferring shares, it was decided to pay Rs.5 crores to Mahesh Alimchandani. Document was executed with Mahesh Alimchandani on 29th March, 2014, in presence of applicant and Tulsi Jashnani. The lease rights in respect to the said plot were to be transferred in the name of M/s.Chinmaya Associates, within 18 months. In the event, the lease right were not transferred it was decided that the amount of

Rs.5,89,00,000/-, was to be returned with interest amount of Rs.5,89,00,000/- was transferred into the account of Mahesh Alimchandani. Surprisingly, Mahesh Alimchandani did not demand the balance amount of consideration. Repeated request was made to Tulsi Jashnani, Gautam Jashnani and Mahesh Alamchandani for transferring the shares in the name of the partnership firm. However, they gave excuses and borrowed time. The shares in respect of the said plot were not transferred to M/s.Chinmaya Associates. In 2018, the complainant was in financial constraints, and, it was decided to sell the said plot. In April 2018, the agent to whom the complainant had contacted, verified the documents and refused to purchase the plot. It was found that the plot is not yet transferred in the name of M/s.Chinmaya Associates and the lease rights continued in the name of Smt.Rasilaben Gokli and her family. The documents relating to transfer of lease rights i.e. the documents executed between Mohan Bhogi and M/s.Chinmaya Associates on 29th January, 2014, by the applicant and Tulsi Jashnani and the documents annexed to the said documents dated 29th June, 1983, with regards to transferring the shares of Smt.Rasilaben Gokli to Mohan Bhogi, power of attorney dated 29th January, 2014, between Mohan Bhogi assigning rights to Gautam Jashnani and

Varun Jashnani, the documents executed between Mohan Alimchandani and M/s.Chinmaya Associates and Tulsi Jashnani were found to be false. It was further revealed that the plot is in the name and possession of Smt.Rasilaben Gokli. Mohan Bhogi had no connection with plot. Bhogi was tried to be traced at address given in executed documents, but, it was found that such person is not residing at said address. None of the parties had attached Aadhar Card while executing documents. The bank account of Mohan Alimchandani and Mohan Bhogi were in the same bank. Tulsi Jashnani, Gautam Jashnani and Mohan Bhogi had tendered false documents in relation to the said plot in the High Court in relation to the suit and utilized the said documents. The High Court had rejected the claim and directed the parties not to use the said documents. Thus, the accused had acted in connivance with each other and committed the aforesaid offences causing loss to the complainant to the tune of Rs.8,27,98,300/-.

3 Learned advocate for the applicant submitted that the applicant has been falsely implicated in this case. No offence is made out against the applicant. The complainant had participated in the transaction. No false representations were made by the applicant. He had executed the documents as partner of the

partnership firm. The father of the applicant is arrested and he is in custody. The complainant himself had checked and verified the transaction. At belated stage, the complainant cannot make grievance that the applicant had deceived him. The documents were created in favour of Chinmaya Associates. No defalcated amount has been credited into account of the applicant. The complainant had forwarded legal notice dated 29th January, 2020 to the applicant. The said notice was replied by the applicant vide reply dated 7th February, 2020, denying all the allegations and contents of notice. The applicant being partner of the partnership firm cannot cause loss to himself. There is no reason for the applicant to cause loss to the firm as he would suffer monetary loss. The complainant had written letter dated 20th February, 2014, requesting to know the transfer charges and arrears in respect to the Juhu land parcel. He was aware of the transaction and was kept in light with regards to events. Mohan Bhogi had written letter dated 20th February, 2014 to the society requesting to transfer property under the name of complainant. It is only at belated stage, the applicant realized the Bhogi had intention to cheat the partnership firm. From the FIR, it is clear that the first informant agreed that the accounts and transactions of Chinmaya Associates were handed over by him and his father. The land parcel is in Juhu is worth Rs.32 crores and it is valued at Rs.11,63,63,100/-, for a consideration of Rs.5 crores, which shows that the complainant was aware of the gains from the property. The applicant had attended EOW on 27th August, 2020 and 18th November, 2020. His statement was recorded. He has co-operated with the investigation. The applicant was pursuing the matter pertaining to Juhu land, but the dishonest intention of Mr.Bhogi were unknown to the applicant. Similar complaint is filed by complainant in respect to property at Lonavala. Applicant had been granted interim protection in application for anticipatory bail.

4 Learned APP submitted that false representations were made by the applicant. Right from inception, there was dishonest intention on the part of the applicant and the co-accused who acted in connivance with each other. The proposal was put forth by the applicant and his father. Applicant and his father were supposed to pursue the transaction and act diligently. The conduct of the applicant show that he had complicity with the co-accused Alimchandani and Mr.Bhogi. Huge loss is caused to the complainant. Thorough investigation is required to be conducted. Considering the nature of dispute, custodial

interrogation of the the applicant is necessary. Learned counsel for the intervenor submitted that the applicant is involved in the crime. He acted in connivance with co-accused. All accused were aware that the property does not belonging to Mr.Bhogi. The property vests in the name of another person. The documents, which were annexed to the deed of assignment were bogus and fabricated. The first informant never met Mr.Mohanlal Bhogi and it was Mr.Tulsi Jashnani and the applicant who has introduced Mr.Alimchandani who was suppressed to be facilitator. It is impressed upon the first informant that the applicant, his father and Alimchandani would take care of legal formalities and verify the title in respect to the property. Based on the inducement made by the applicant and his father, deed of assignment dated 29th January, 2014 was executed by and between Mohan Bhogi and Ms/.Chinmaya Associates, which was signed by the applicant. Tulsi Jashnani and applicant had completely taken control over the transaction and induced the complainant to part with huge money. The deed of assignment contains documents executed between Mohan Bhogi and original owner i.e. Rasilaben Gokil. The said documents were bogus. There is complete chain of documents, which links the pre planned conspiracy by the accused. Mahesh Alimchandani brought old stamp papers issued in his name, which were recovered during the search of his office and there is possibility of larger conspiracy. Bank documents of accused are under scrutiny. Complainant has been cheated in another case which is registered with Lonavala Police station, in which identical *modus operendi* wherein the complainant was made to believe that he would be getting title free land from any encumbrance from which he can earn profit. But, subsequently, it was revealed that the person to whom money was parted, does not have title. Apart from documents dated 29th January, 2014, another power of attorney was executed on the same day by the person who further induced that Mr.Bhogi is having title and control over the property.

5 From the tenor of the FIR and the investigation conducted, it is apparent that the applicant and Tulsi Jashnani has induced the applicant to enter into the transaction with Mohan Bhogi and Mahesh Alimchandani. Amount of Rs.8,27,98,300/- was parted by the applicant under the belief that the representations made by the accused were true. It is pertinent to note that the complainant suspected the transaction, as Mohan Bhogi or Mahesh Alimchandani did not insist since the complainant intended to sell the property, on enquiry it was

revealed that the shares in the property were not transferred in the name of M/s.Chinmaya Associates. Mr.Bhogi had no title over the property. The amount was parted to Mr.Bhogi and Mahesh Alimchandani. It is pertinent to note that neither Mahesh Alimchandani nor Mr.Mohan Bhogi were known to the complainant. They were introduced by the applicant and his father. False representations were apparently made inducing the complainant to part with huge amount. Documents were executed. Mahesh Alimchandani were represented to be facilitator and the person holding right to deal with the property. However, the property stood in the name of the original owner. Mr.Bhogi was not the original owner. The documents were executed in the presence of the applicant and his father. The applicant is the signatory to deed of assignment, as an partner of M/s.Chinmaya Associates. The father of the applicant is in custody. Mahesh Alimchandani is also in custody. The fabricated documents were annexed to the deed of assignment. Specific role has been attributed to the applicant in the FIR. Rosy picture was narrated by the applicant. *Prima faice,* there is material to indicate that the applicant and the co-accused were acting in connivance with each other. The investigation is in progress. Prosecution contended that the bank account of the applicant are under verification. The amount was parted on the basis of representations and the documents, which was presented. The documents were bogus. Applicant is son of Tulsi Jashnani who has been arrested in this case. The representation for purchase of property or lease hold agreements were made by the applicant and the co-accused. Suit was filed in the High Court through M/s.Chinmaya Associates, regarding title of the property bearing CTS No.283 survey no.287 Vile Parle. In the said suit, applicant had submitted the death certificate of Rasilaben Gokli, which was found to be false. Thorough investigation is required to be conducted. One more case has been registered by the complainant in respect to the property at Lonavala where similar *modus operndi* was allegedly adopted. In the circumstances, no case for grant of anticipatory bail is made out.

6 Hence, I pass the following order :

:: O R D E R ::

(i) Anticipatory Bail Application No.1107 of 2020, is rejected;

(ii) At this stage, learned counsel for the applicant requested for extension of interim relief granted by this Court on 13th January, 2021, for four weeks. The prayer for extension is opposed by the learned APP and the learned counsel for the intervenor. Considering the submissions, the interim relief is extended by three weeks from today;

(iii) Anticipatory Bail Application No.1107 of 2020, stands disposed of accordingly;

(iv) Interim Application No.22 of 2021, stands disposed of.

(**PRAKASH D. NAIK, J.)**