

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

ANTICIPATORY BAIL APPLICATION NO. 1487 OF 2019

Faisal Mohamed Husain Agarbattiwala .. Applicant
V/s.

The State of Maharashtra ..Respondent

Mr. Subhash Jha i/b Law Global for the Applicant.

Mr. Y.Y. Dabke, APP for the Respondent/State.

CORAM : C.V. BHADANG, J.

**DATE : 31ST JULY, 2021
(Through Video Conferencing)**

P.C.

1. The Applicant apprehending arrest in connection with investigation of crime No. 188 of 2019 of Police station Nagpada, Mumbai under Section 380 and 457 read with Section 34 of I.P.C. is seeking pre-arrest bail.

2. The Applicant had obtained a loan from Bombay Mercantile Co-operative Bank Limited to the tune of Rs.3 crores for which a flat bearing No. 201, 'F' Wing of Doodhwala Complex, Nagpada belonging to the Applicant was mortgaged with the Bank. According to the complaint dated 14.06.2019 of Mr. Abujar Rizvi, the Assistant

General Manager of the Bank, the Bank had taken out proceedings under Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 ('SARFAESI Act') and in pursuance of the order passed on 26.03.2019, the physical possession of the flat was taken over on 27.04.2019. The allegation is that on 30.05.2019, some unidentified persons broke open into the flat and there were articles worth Rs.9,000/- as set out in the complaint which were found missing from the flat. Upon such complaint, the offence came to be registered.

3. I have heard the learned counsel for the Applicant and the learned APP. The record discloses that by an order dated 10.07.2019, interim protection was granted to the Applicant *inter alia* on the condition that the Applicant shall report to the Investigating Officer on 15th, 16th and 17th July 2019. The learned counsel for the Applicant states that the Applicant has accordingly attended and has co-operated with the investigating agency. The learned counsel for the Applicant also points out that the flat has been auctioned by the Bank and the amount has been appropriated in the loan account.

4. The statement dated 14.06.2019 of Mr. Abujar Rizvi, *prima facie* shows that there were two unidentified ladies, who had broken into the flat in the night intervening between 30.05.2019 and 31.05.2019. According to the prosecution, these two ladies were maid servants working with the Applicant. The learned APP also submits that the Investigating Officer may require the attendance of the Applicant for holding Test Identification Parade. The learned counsel for the Applicant on instructions states that the Applicant shall accordingly attend and shall co-operate with the investigating agency. In that view of the matter, the following order is passed:

ORDER

i) In the event of arrest, in connection with the investigation of Crime No. 188 of 2019 registered with Police station Nagpada, Mumbai, the applicant shall be released on bail on executing a PR Bond in the sum of Rs.20,000/- with one or two solvent sureties each in the like amount.

ii) The Applicant shall report to the Investigating Officer as and when required and shall not tamper with the prosecution evidence/witnesses.

iii) In the event of breach of any of the conditions, the bail is liable to be cancelled.

5. The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.