

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

ANTICIPATORY BAIL APPLICATION NO.2339 OF 2021

Suresh Ramchandra Sagvekar

.. Applicant

Vs.

The State Of Maharashtra

.. Respondent

...

Mr.Sachin B. Chandan, Advocate for Applicant.

Mr.S.R. Agarkar, A.P.P. for the State-Respondent.

API. Ajay Chavan, D.B. Marg police station, present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 29th SEPTEMBER, 2021

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1. The applicant is apprehending arrest in connection with C.R. No.59 of 2021 registered with D.B. Marg Police Station for the offences punishable under Sections 406, 420 of the Indian Penal Code (for short "IPC"). The First Information Report (for short "FIR") was lodged on 20.07.2021.

2. The complainant conduct Bar and Restaurant situated at J.S.S. Marg, Kennedy Bridge, Mumbai. Notice was issued by the Corporation in 2014 alleging unauthorized extension of structure. In 2015, order was made final. The proceedings were initiated in the Court in 2019, which were decided in favour of the Corporation. It was certain that structure would be demolished by Corporation. The complainant met applicant. There was discussion about the aforesaid structure and action

by corporation and result of litigation. The applicant had allegedly represented that he has acquaintance with the officer from the Corporation in Estate Department, D-Division and he can manage to save structure. The applicant visited premises of the complainant and told that he will have to spend around 20 lakhs for protecting structure. The complainant believed him. The applicant spoke to one Jadhav, who also had discussion on cellphone. The complainant was informed that Mr.Jadhav has demanded 20 lakhs for saving his structure. The complainant parted amount of Rs.14,50,000/- to the applicant in cash. He has also handed over the amount of Rs. 25,000/- by cheque to the applicant and Rs.1,25,000/- for meeting expenses towards professional fees, preparing documents for initiating proceedings in the Court. According to the complainant the total amount parted to the applicant was Rs.16 lakhs.

3. Learned counsel for the applicant submitted that the cheque of Rs. 25,000/- was indeed received by the applicant. The allegations that the amount of Rs.16 lakhs was given to the applicant is false. Amount of Rs.1,25,000/- which the complainant had referred to, was given to the advocate for challenging the order of the Civil Court. The Appeal from Order was filed on behalf of the complainant in the High Court. The applicant has annexed copy of order dated 16.01.2020 in relation to said appeal. It is submitted that the amount around 6,50,000/- was handed over to the Mangesh Mohite. He was

called for interrogation by the investigating officer before the registration of FIR. During inquiry, while he was at the police station he suffered cardiac arrest. Mangesh Mohite had admitted that he received amount. However, the officer was pressurising him to refund the money to the complainant. He died at police Station. Inquiry in that regard is being conducted against concerned officer. The applicant was called for inquiry and he deposed in the inquiry against the officer. Thereafter, the FIR was registered and applicant is implicated in the FIR.

4. Learned APP submitted that the inquiry relating to the death of the Mangesh Mohite is being conducted. He had expired during enquiry. The messages exchanged between the applicant and the complainant indicate that applicant has received the amount.

5. From the FIR and the other documents, it is apparent that the case of the complainant is that he wanted to save unauthorized structure. The notice of demolition was finalized by the Corporation. The proceedings initiated by him before the Civil Court were decided in favour of Corporation. It is in these circumstances, he had allegedly dealing with the applicant to save the structure. The transactions itself is unlawful. It is also admitted position that Mangesh Mohite was interrogated, he suffered cardia arrest and died police station and inquiry is being is going on. In the interrogation that applicant has stated

that the amount was given to Mangesh Mohite.

6. In the light of the factual aspects of the matter, the applicant need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application No.2339 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in C.R. No.595 of 2021 registered with Dr. D.B. Marg Police Station, the applicant be released on bail on executing PR bond in the sum of Rs. 25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall appear before the Investigating Officer on 6th, 7th and 8th October, 2021 between 11.00 am to 01.00 pm and thereafter, as and when called for till the filing of charge-sheet.
- (iv) Application disposed of.

(PRAKASH D. NAIK, J.)