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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1638 OF 2019

SATISH MAHADEV POWAR

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. Paras Yadav for the applicant

Ms. Sharmila S. Kaushik APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 11, 2021.

P.C.:

1] Applicant is seeking pre-arrest bail in M.C.R. No. 221/2016 registered with Shahupuri Police Station for Offences punishable under Sections 420, 406, 467, 468, r/w 34 of the Indian Penal Code.

2] Prosecution case against the applicant-accused no. 3 is, having received consideration from the complainant, a housing finance company for sale of house property in favour of accused nos. 1 & 2, has consented to sell the same to accused no. 4 and as such, cheated

the complainant-company.

3] The submissions of learned counsel for the applicant are, the fact about receipt of part consideration of Rs. 10 Lakhs from the complainant housing finance company was well within the knowledge of accused no. 4 and it is for the accused no. 4 with accused nos. 1 & 2 to shoulder the responsibility of repayment of loan amount. According to him, complainant had already taken recourse to attachment and sell of said property and as such, applicant's custodial interrogation is not required.

4] In the backdrop of the fact that applicant is on ad-interim protection for a period of three years, this Court called upon the applicant to secure the amount that he has received from the complainant, however, it appears that complainant has not responded to the said call. Be that as it may, it appears that complainant having parted with loan amount of Rs. 10 Lakhs in favour of the applicant, owner of the property, failed to mortgage the same with the complainant, however, applicant has proceeded to sell

the same to accused no. 4 for higher consideration by action hand in glove with accused nos. 1 & 2. Even if accused no. 4 is protected by granting anticipatory bail, however, same will be of hardly any assistance to the applicant, particularly having regard to the fact that applicant in spite of having received loan amount of Rs. 10 Lakhs from complainant at the behest of accused nos. 1 & 2 has consented to transfer the property to accused no. 4.

5] Necessary ingredients of Section 420 cheating, 406, criminal breach of trust can be inferred.

6] Application as such lacks merit, stands rejected.

[NITIN W. SAMBRE, J.]