

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

ANTICIPATORY BAIL APPLICATION NO.2073 OF 2018

Bharat Omprakash Bhushan

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Singh Diwakar Ramashray a/w Mr. Rahul Mishra and Mr. Kishor Salunkhe for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent–State

PSI Mr. Dilip Palve from Nallasopara Police Station, is present

CORAM : REVATI MOHITE DERE, J.

MONDAY, 9th AUGUST 2021

P.C. :

1 Heard learned counsel for the parties.

2 By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I-152 of 2016 registered with the Nallasopara Police Station, Palghar, for the alleged offences punishable under Sections 420 r/w 34 of the Indian Penal Code and under Sections 3, 4, 5 and 8 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act.

3 Vide order dated 11th October 2018, this Court (Coram : Prakash D. Naik, J.) had granted interim protection to the applicant on certain terms and conditions. In the said order, it is stated that admittedly the amount has been handed over to one Mr. Bathiya and that all the co-accused in the said case were arrested and were subsequently released on bail. It is also a matter of record that charge-sheet has been filed against the arrested accused. The transaction is of the year 2016. Although, learned counsel for the applicant submits that the applicant was not a partner of the firm i.e. M/s. Siddharth Enterprises and was only an employee, the said submission is vehemently refuted by the learned A.P.P. Learned A.P.P submits that during investigation, it is transpired that the applicant was also a partner of the said firm.

4 Learned counsel for the applicant submits that the co-accused-Vinod Vallabhdas Bathiya as well as the respondent No.2-complainant-Rakesh Singh have amicably settled the dispute. He further submits that the said co-accused-Vinod Bathiya has filed a writ petition in this Court being Writ Petition No. 2820 of 2019 seeking quashing of the aforesaid FIR i.e. C.R. No. I-152 of 2016 registered with the Nallasopara Police Station, Palghar. He submits that in the said writ petition, the respondent No. 2 has also filed an affidavit giving his no objection to the quashing of the said

complaint. It appears that the said writ petition is still pending before the Division Bench.

5 Be that as it may, considering that the case is of the year 2016 and that investigation is complete and charge-sheet is filed against the arrested co-accused in the said case, custodial interrogation of the applicant is not warranted. As far as merits are concerned, the allegation of the complainant is that the amount was handed over to the co-accused in the presence of the applicant and not to the applicant directly.

6 Considering the aforesaid, the interim protection granted by this Court vide order dated 11th October 2018, stands confirmed on the following terms and conditions :

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount ;

(ii) The applicant shall not tamper or attempt to contact or influence the complainant, witnesses or any person concerned with the case.

(iii) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

(iv) The applicant to cooperate with the investigating agency;

7 The application is allowed in the aforesaid terms and is accordingly disposed of.

8 It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

9 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.