

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 2417 OF 2019

Mahendra Yashwant Utekar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Viresh V. Purwant, for the Applicant.
Mrs. S. D. Shinde, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED : 21st AUGUST, 2021

PC:-

1. This application is preferred for pre-arrest bail in connection with CR No.171/2018 registered with Vartak Nagar Police Station, Thane, for the offences punishable under Sections 420, 465, 467, 471, 474 read with 34 of the Indian Penal Code, 1860 ("the Penal Code").
2. Mr. Anil Bhosale, the first informant, lodged report against accused Santosh Bagade and Rajesh Sheety with the allegations that by making a false representation that the said accused had interest in Flat no.315, third floor, Krushna Darshan, Majiwada, Shivai Nagar, Thane (W), they professed to sell the same to the first informant and thereby induced him to part with a sum of

Rs.64,25,000/- and in the process committed the offences of cheating and forgery.

3. Though the applicant was not named in the FIR, apprehending arrest in the said crime, the applicant preferred Bail Application No.2177 of 2019 before the learned Sessions Judge which came to be rejected by an order dated 23rd October, 2019, opining *inter alia* that there was material to indicate that the applicant had obtained valuation report from the concerned agencies.

4. By an order dated 6th November, 2019, this Court granted interim relief as the name of the applicant did not find mention in the FIR and the accusation was that the applicant had obtained valuation report in respect of the subject property for being submitted to the Housing Finance Company.

5. Heard Mr. Purwant, the learned Counsel for the applicant and Mrs. Shinde, the learned APP for the State.

6. Mr. Purwant would urge that the applicant was nowhere named in the FIR. Even in the report seeking remand of the co-accused no role was attributed to the applicant. It was only in the reply to the application for anticipatory bail, preferred by the applicant before the learned Sessions Judge, the aforesaid role of having obtained valuation report from the valuer was

attributed to the applicant. In fact, the applicant has no concern whatsoever with the transactions in question.

7. In contrast, Mrs. Shinde, the learned APP would urge that the applicant had shared the proceeds of the crime with the main accused. An endeavour was made to bank upon the statement made by the principal accused Santosh Bagde, implicating the applicant as well.

8. At this juncture, it would be rather hazardous to place reliance on the statement of the co-accused in the absence of any admissible material to establish the nexus between the applicant and the alleged offences. At the highest, the applicant allegedly played a role in obtaining valuation report. The allegation is not that the applicant, being a valuer, gave a false valuation report or otherwise forged the valuation report.

9. In the aforesaid view of the matter, the custodial interrogation of the applicant does not seem to be imminently warranted. I am therefore persuaded to allow the application and confirm the interim order dated 6th November, 2019.

10. Hence the following order:

: ORDER :

(i) The application stands allowed.

- (ii) Interim order dated 6th November, 2019 stands confirmed on the terms and conditions incorporated therein.
- (iii) In addition, in the event charge-sheet is filed post completion of investigation, the applicant shall appear in the consequent proceedings before the learned Magistrate regularly.

[N. J. JAMADAR, J.]