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

ANTICIPATORY BAIL APPLICATION NO.2685 OF 2019

RAJSHEKHAR LAKU RATHOD

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Mr. S.B. Desai for the applicant.

Smt. Veera Shinde, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 20, 2021

P.C. :

Heard learned counsel for the applicant.

2. This is an application for grant of pre-arrest bail in respect of C.R.No. 467/2019, registered with the Sinhagad Police Station, Pune, under Sections 406, 420 of the Indian Penal Code.

3. Briefly stated, it is the case of the complainant Shri Laxmikant Trimbakrao Medhe that the applicant, though received a sum of Rs.27 lakhs from the complainant, failed to execute sale deed in respect of an agricultural land. The complainant Shri Laxmikant Trimbakrao Medhe had also

filed a suit for recovery being Regular Civil Suit No. 989 of 2018 before the Civil Judge Senior Division Pune at Pune.

4. On 14/12/2019, the settlement pursis was entered between the applicant and the complainant Shri Laxmikant Trimbakrao Medhe wherein the applicant agreed to pay the total consideration of Rs.24,56,000/- to the complainant. Out of this consideration, an amount of Rs.7 lakhs was duly paid. It is submitted by learned counsel for the applicant that rest of the amount could not be paid because of certain financial difficulties faced by the applicant as a result of outbreak of Covid-19.

5. Learned counsel for the applicant, however, submits that there is no intention on the part of the applicant to deprive the complainant of the balance consideration as agreed and in fact the matter is before the Executing Court on 28/1/2021. Every endeavour is being made to satisfy the complainant's claim. The settlement pursis has been already placed on record and which has been marked as 'X'.

6. So far as another complainant Sou. Aparna Ajay Dalwale is concerned, where similar such allegations are

levelled, learned counsel for the applicant placed on record an application which is in the nature of settlement pursis. Learned counsel for the applicant submits that out of the agreed sum of Rs.30 lakhs payable to the complainant Sou. Aparna Ajay Dalwale, a sum of Rs.3 lakhs has already been paid and submits that the applicant is duty bound to comply with the said settlement pursis.

7. Learned counsel for the applicant submits that based on the pursis the suit has been disposed of in terms of the settlement arrived at between the parties.

8. The applicant is granted interim protection since 9/12/2019. For convenience, the order dated 9/12/2019 is reproduced and which reads thus:

"PC.

1. This is an application for Anticipatory Bail in C.R. No.467 of 2019 registered with Sinhagad Road Police Station, Pune for the offences punishable under Sections 406 and 420 of the Indian Penal Code ("IPC", for short).

2. The prosecution case is that, the amount of Rs. 27 Lakhs was paid to the applicant for purchase of land in 2015. The complainant has also fled civil suit and complaint under section 138 Negotiable Instrument Act. Learned advocate for the applicant on instructions submits that, attempt would be made to settle dispute with the complainant. The applicant would place the matter before the National Lok Adalat on 14th December 2019. It is submitted that the applicant is willing to pay one fourth amount to the complainant within one month and thereafter,

the balance amount would be paid in installments. The applicant and the complainant would be at liberty to decide the terms of settlement if the matter is settled. It may not be construed that this Court has accepted the settlement as contended by the advocate for applicant. Learned APP submits that, one more person is deceived for amount of Rs. 25 lakhs by applicant. The statement of the said witness has been recorded. In these circumstances, interim protection is granted till the next date of hearing.

3. Stand over to 19th December 2019. The applicant shall not be arrested till then. To be listed on Supplementary Board."

9. The suits filed by the complainants are disposed of. The execution proceedings in respect of the suit filed by one of the complainant is pending. The applicant nonetheless has paid first installment of Rs.7 lakhs to the complainant Shri Laxmikant Trimbakrao Medhe. In this view of the matter, in my opinion, having regard to the overall facts and circumstances, the custodial interrogation of the applicant is not required in the present case.

10. Though the notice was issued to the respondent no.2, having regard to the facts and circumstances of the present case, as the applicant is not disputing his liability to return the amounts received by him from the complainants, and in view of the civil proceedings initiated, in my opinion, the presence of the respondent no.2 may not be necessary for

deciding the question whether the custodial interrogation of the applicant is required. Hence the following order:

ORDER

1. Interim order dated 9/12/2019 is confirmed.
2. In the event of arrest of the applicant in in respect of C.R.No. 467/2019, registered with the Sinhagad Police Station, Pune, the applicant be released on bail executing PR bond of Rs.50,000/- with one or more sureties in the like amount.
3. The applicant shall co-operate with the investigation and shall attend the concerned police station as and when called.
4. The applicant shall furnish his residential address and mobile number to the investigating officer.
5. The application is disposed of.

(M.S.KARNIK, J.)