IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.618 of 2021

Nitin s/o Vitthalrao Gedam vs. State of Maharashtra, through P.S.O. Bori, District Nagpur

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Office notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	*Court's or Judge's Orders*

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Shri C.B. Barve, Advocate for the Applicant.
Shri I.J. Damle, A.P.P. for the Non-Applicant/State.

CORAM : VINAY JOSHI, J.
DATE : 30th NOVEMBER, 2021.

Heard.

02] In anticipation of arrest in Crime No.367/2021 registered with the non-applicant Butibori Police Station, District Nagpur for the offence punishable under Sections 420, 468 and 471 of the Indian Penal Code, the applicant is praying for grant of pre-arrest bail.

03] It is the prosecution case that the informant was acquainted with one Faizal Ali resident of Kolkatta, who was erstwhile working as Sales Manager with Infratech Real Estate Pvt. Ltd. The informant came to know from Faizal Ali that Infratech Real Estate Pvt. Ltd. was having associate companies namely Tirumala Developers Pvt. Ltd. and Venkatesh Assets Maximer Pvt. Ltd. These companies were indulging into real estate business. It was represented to the informant that the plotting work at Andaman was going on. The informant was intending to purchase a plot at Andaman, hence in the year 2013 under agreement he has paid a total sum of Rs.24 lakhs for booking of the plot. Though the informant was assured to execute sale deed in proximity, however, till the year 2015 sale deed was not executed.

04] On repeated demand of refund, the applicant was suggested to invest the said amount in another layout of sister concern viz. Tirumala Developers Pvt. Ltd. Accordingly, the informant has booked the plots in which the earlier amount was appropriated. As per the agreement, the informant paid near about Rs.46.00 lakhs towards booking of the plots. However, it was again represented that there is a problem in the layout and informant was asked to purchase the plot in Khasra No.116 owned by the Venkatesh Assets. Accordingly again agreement dated 07.12.2015 was executed with Venkatesh Assets. Time and again the informant requested for execution of the sale deed, however, it was not done. It is informant's case that he has paid total sum of Rs. 78,52,000/- through cheque and RTGS, however, no plot was assigned, and therefore, he has been cheated.

05] It is the informant's contention that the applicant was closely associated with all the concerns. He was working as General Manager as well as he is a partner in sister concerns. The applicant has actually executed agreement and received the amount. The entire transaction was done by the applicant by misrepresenting the customers.

06] The learned counsel appearing for the applicant would submit that initially the applicant was appointed as Assistant Manager and was acting as per the directions of the Directors of the Company. He would submit that though he has signed the agreement in the capacity of partner, he was not the partner, but at the behest of the Director, he signed accordingly to save his job. It is submitted that the applicant has not received any amount and was not the decision making authority. Therefore, by claiming innocence, he seeks for pre-arrest protection.

07] Perusal of the F.I.R. *prima facie* indicates that the applicant was connected with all sister concerns. Admittedly, he has executed the agreement and signed several receipts to the customers by accepting the amount. Apparently, the applicant was looking after both the concerns, as he signed various documents and represented himself as a partner of the said concern. The chain of event discloses that all the firms are interconnected with each other. Apparently, by requiring customers to invest the amount, time to time different promises were made by changing stand. Ultimately, the amount was not refunded.

08] The role of the applicant is evident. Undeniably, he acted on behalf of both the concerns. The amount involved is huge sum of Rs.78.52 lakhs. Apparently, the complainant was cheated for huge sum which requires thorough investigation. Unless there is custodial interrogation of the applicant, his definite role and the manner in which the transaction took place along with changing of money cannot be ascertained. Considering the nature of accusation and seriousness of offence, it is not a fit case for grant pre-arrest bail. In view of that, Criminal Application being devoid of merit, stands rejected.

09] All pending Misc. Criminal Applications also stand disposed of.

JUDGE

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