

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1108 OF 2022
WITH APPLN/3066/2022 IN ABA/1108/2022

PIRAJI APPA PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Shaikh Ashraf Patel h/f.
Mr. Abhijeet P. Avhad
APP for Respondent/State : Mr. V. M. Kagne
Advocate for complainant : Mr. N. C. Garud
...

CORAM : S. G. MEHARE, J.

DATE : 14-09-2022

PER COURT :-

1. Heard the learned counsel for the applicant, the learned A.P.P. for the respondent/State and the learned counsel for the complainant.

2. It has been alleged against the applicant that he has shown one land to the complainant and executed the sale deed of another land. He has received Rs.26,00,000/- from the complainant. The applicant has gained the confidence of the complainant. Therefore, the complainant believed in him and the sale deed was executed. Subsequently, the complainant learnt that the fraud has been played with him. A property was purchased only for Rs.3,26,000/- only as against Rs.26,00,000/-.

The complainant demanded him the money. But, he denied and threatened him.

3. The learned counsel for the applicant would submit that the applicant has played no fraud. The transaction was done with their knowledge of the complainant. The property was purchased in joint name. The portion which went to the share of the applicant has been sold at good price, however, due to the fall in the market, the complainant could not get the good price of his share. Thereafter, after 22 months, he came with a case that a fraud has been played with him. Hence, the application may be allowed.

4. The learned A.P.P. has opposed the application contending that the applicant duped the complainant. The applicant misrepresented the facts. The sale deed was shown at less price but huge amount has been paid to the applicant. Hence, the application may be rejected.

5. The learned counsel for the complainant has vehemently argued that there are five crimes to the discredit of the applicant. There are bank statements showing that the amount of Rs.26,00,000/- has been paid to the applicant. The applicant is habitual in playing fraud with the many other persons. The complainant has suffered a huge loss of more than Rs.22,00,000/-. The witness to the sale deed was an agent, who is co-accused in

this case. Both of them have played a fraud with the complainant. The money is to be recovered from the applicant. Therefore, his custodial interrogation is essential.

6. The facts of the case reveal that the sale deed was executed and after 22 months from the sale deed, the complainant revealed that the property purchased in his name was a different than the property shown to him by the applicant. This goes to show that the applicant had knowledge about the transaction. He being purchaser was bound to verify the facts and documents of title of the property proposed to be purchased. He has a case that he has paid huge amount of Rs.26,00,000/-, but the sale deed is shown at less price. It is a general practice to avoid stamp duty and registration charges and put the Government to the revenue loss by showing less price, though the market price is much higher than the actual market shown in the sale deed. In fact, buyer or seller takes risk in such type of transactions. Such an amount is unaccounted money. The people take such risk in huge transactions. Be that as it may, the facts of the case reveal that for about 22 months, the complainant was silent. The complainant did not verify the facts before paying money to the applicant. If he is not satisfied with the transaction and want to recover the money allegedly paid excess to the applicants, he has other legal remedy. The crimes to the discredit of the applicant/accused is not a ground to refuse the bail. The Court has to see whether there is

material for custodial interrogation of the accused in the crime. Considering the allegations levelled against the applicant and the conduct of the complainant, the Court is of the view that the prosecution has no case for custodial interrogation. The application deserves to be allowed. Hence, the following order :-

- i) The application is allowed.
- ii) The interim protection granted to the applicant by the order dated 26.08.2022 is confirmed on the same terms and conditions with additional condition that to attend the police station as and when called by the Investigating Officer on written notice.
- iii) Criminal Application No. 3066 of 2022 seeking assist to PP, is allowed.

**(S. G. MEHARE)
JUDGE**

rrd