

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

ANTICIPATORY BAIL APPLICATION NO. 56 OF 2022

Himanshu Vilas Padwal	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Prashant Pandey i/b. Irfan Unwala for Applicant.

Mr. Ajay Patil, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 12th JANUARY, 2022
(through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 633 of 2021 registered at Bandra Police Station, on 27/11/2021, under sections 420, 465, 468, 471, 506 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Prashant Pandey, learned counsel for the applicant and Shri. Ajay Patil, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Neelam Khanna who was 65 years of age. She was working in a school as Teacher and also earning by taking private

tutions. The informant lost her husband in July 2015. They had their savings to the tune of Rs.72 lakhs which she had kept in DCB Bank. She wanted a flat for her residence purposes, therefore, she started making inquiry. She had a friend by name Dhanashree. She was wife of the present applicant. Dhanashree told the informant that the applicant was in position to get the flats constructed by MHADA and for that he used to take separate commission. Dhanashree quoted Rs.85 lakhs for providing a flat and also indicated that the amount will have to be paid in cash. The informant believed her friend Dhanashree and accepted the proposal.

4. In October 2016, the applicant called the informant to see a flat in MHADA society, Swami Samarth Nagar, near Lokhandwala Circle. Accordingly, the informant and her son went there. The applicant and two others met there at the gate of the building. One of them was introduced as Nizam Shaikh by the applicant. The informant was told that, those two persons were applicant's partners. The informant was shown flat No.1503. The flat was closed, but she was shown video shooting of the interior of

the flat. They quoted Rs.20 lakhs as advance and total price was quoted at Rs.85 lakhs. The F.I.R. further goes on to mention various instances from October 2016 onwards, in which, the applicant himself and his partner Nizam Shaikh extracted money from the informant in that connection.

5. In January 2017, instead of flat No.1503 she was told that, she was given flat No.603. But, even thereafter nothing transpired. Most of the amounts were accepted in cash. The F.I.R. gives details of that. It is her case that, in all, she paid Rs.85 lakhs to the accused, out of which, Rs.20 lakhs were mentioned as friendly loan to Shri. Velankar and Shri. Subhash Shah. According to the first informant, she was put to loss to the tune of Rs.65,45,500/-. On this basis the F.I.R. was lodged.

6. Learned counsel for the applicant submitted that, Nizam Shaikh is the main accused. There are many cases pending against him. Most of the amount is accepted by Nizam Shaikh. The applicant has nothing to do with the transactions between the informant and Nizam Shaikh. As per understanding, Nizam Shaikh was to complete the formalities. He received cash, but did not

complete the formalities. The allegations against the present applicant that he received Rs. 41 lakhs in cash are false. The applicant's statement is recorded. He has denied having received any money. He is made a scapegoat because of the acts committed by Nizam Shaikh. The applicant has co-operated with the investigation and, therefore, his custodial interrogation is not necessary.

7. Learned APP opposed this application. He submitted that, the poor teacher was 65 years of age and was looking for dwelling house for herself. She was cheated to her entire life savings. There are sufficient allegations against the present applicant. He has played major role. He had, in fact, taken part in depositing cash amount in other's bank account and getting some amount in lieu thereof. The applicant's role is clearly spelt out. His custodial interrogation is necessary. The informant has lost her money.

8. I have considered these submissions. Apart from F.I.R. there are statements of Yogesh Girkar and Rakesh. There also they have confirmed certain allegations in the F.I.R. The role played by

the applicant is also mentioned in their statements. In any case, the F.I.R. itself is clear enough. There are many allegations against the present applicant. The informant has lost her money and the applicant's role is clearly spelt out. The inducement was made by him and money was accepted by him. The informant has not received back any part of her money. The offence is serious and innocent purchaser was deprived of her life savings. Custodial interrogation of the applicant is necessary. No case for grant of anticipatory bail is made out.

9. The application is rejected.

(SARANG V. KOTWAL, J.)