

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 71 OF 2022

Kamlesh Rajendra Betala

..Applicant

V/s.

The State of Maharashtra & Anr.

..Respondents

Ms. Sonal Parab i/b Rajeev Sawant and Associates for the
Applicant.

Mr. A.R. Kapadnis , APP for the Respondent/State.

Mr. Mahadji Phalke for the Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : 4 APRIL 2022

P.C.

1. The Applicant apprehending his arrest in Crime No.427 of 2021 registered with Saswad Police Station, Dist Pune under Section 420, 406, 447, 468, 471, 506, 507 read with Section 34 of I.P.C. is seeking anticipatory bail.

2. Four MoUs were executed somewhere in the year 2012 between the parties under which the Applicant had agreed to purchase four different plots from the informant for total consideration of Rs.4.35 crores. Admittedly only an amount of Rs.11,00,000/- out of that has been paid by the Applicant to the

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informant. According to the Applicant only one sale deed is got executed by the informant in respect of one plot for which consideration is shown to be about 95,00,000/-. The Applicant addressed two notices asking the informant to execute sale deed in respect of remaining plots. For the first time, the reply was sent by the informant in the year 2015, raising certain contentions.

3. It is also an admitted position that the Applicant has filed a suit for specific performance, which is pending and therefore, filing of the FIR is wholly misconceived. It is submitted that in any event, there is no element of cheating or misappropriation discloses from the FIR and the custodial interrogation of the Applicant, is not necessary.

4. The learned APP has submitted that apart from the civil dispute, there is an element of deceit which requires investigation for which custody of the Applicant is necessary.

5. I have considered the circumstances and the submissions made.

6. It is an admitted position that the Applicant has filed civil suit for specific performance, which is pending. Normally, in a dispute predominantly a civil nature, this court would grant indulgence in a matter seeking pre-arrest bail. However, upon

hearing the learned counsel for the parties, in my considered view the dispute has also certain criminal overtones.

7. It is necessary to note that the initial transaction is of the year 2012. Till today, out of total consideration of Rs.4,35,00,000/-, only an amount of Rs.11,00,000/- is paid by the Applicant, in consideration of which one sale deed is executed, in favour of the Applicant. The learned APP pointed out that there are two sale deeds executed.

8. Be that as it may. Considering the nature of the dispute, this application was adjourned in order to enable the parties to explore the possibility of settlement. Today the learned counsel for the parties, submitted that although there was some progress in arriving at the amount payable, towards the balance consideration, no agreement could be reached about the schedule of such payment. The net result is that the Applicant has got executed one sale deed for consideration of approximately Rs.95,00,000/- on payment of an amount of Rs.11,00,000/-. The cheques in respect of the balance consideration have been dishonored. It is in this context, it is submitted on behalf of the Respondent No.2 that since inception, the Applicant had no intention to honour the commitment.

9. Considering the overall circumstances and the conduct, I do not find a case for grant of pre-arrest bail is made out.

10. The Criminal Application stands rejected.

11. At the request of learned counsel for the Applicant, interim protection shall continue to operate for a period of three weeks from today.

(C.V. BHADANG, J.)