

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

ANTICIPATORY BAIL APPLICATION NO.400 OF 2022

Suresh Nathu Sawle Applicant

versus

State of Maharashtra Respondent

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- Mr.Niteen Pradhan a/w Shubhada D. Khot a/w Ms. Ameeta Kuttikrishnan, Advocate for Applicant.
- Ms.Sharmila S. Kaushik, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 17th FEBRUARY, 2022**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.I-3/2019, dated 04/01/2019, registered with Navghar Police Station, Bhayandar, District Thane, under sections 448, 454, 465, 467, 471, 384, 409, 511 r/w 34 of the Indian Penal Code.

2. Heard Mr.Niteen Pradhan, learned counsel for the Applicant and Ms.Sharmila S. Kaushik, learned APP for the State.

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3. The FIR is lodged by one Ajaykumar Satiram Verma. He had given written complaint to the police station on 07/05/2018. He has stated that he wanted to purchase a flat. One Kaushal Kumar took him to M/s. Giriraj Property Estate and introduced him to one Kirti Suryakant Doshi. He in turn told the informant that a flat was available in Sai Akruti Empire building. The flat was owned by one Priyamvada Umesh Patel. The informant was taken to that flat. The informant decided to purchase that flat. In January 2014 Kirti Doshi showed him a flat No.102 in 'A' wing, admeasuring 46.46 sq.mtr. He was shown documents in favour of Priyamvada. According to these documents, she had purchased that flat in January 2014 for Rs.18,75,000/-. The owner Priyamvada had given power of attorney to one Chetan Gautam Thakar. The informant paid Rs.24,35,000/- in the name of Priyamvada. He had also paid registration fees of Rs.28,000/- The agreement was registered. By that time the building was completed upto 80% of construction. According to the first informant, he informed the

builder Amit Palshetkar and paid transfer fee Rs.80,000/- to Amit. On 10/05/2016 the builder gave him confirmation letter. It was mentioned that the possession would be given in 2016. In January 2017 the informant performed Pooja in that flat. The basic amenities were still not provided. Therefore the informant continued staying in his house at Naigaon and used to visit that flat in 2-3 months. On 07/05/2018 when the informant went to the flat, he saw that one person had illegally taken possession of that flat by breaking open the lock. That person claimed to have paid money to builder Amit Palshetkar and told the informant that till his money was not refunded he intended to stay in the same flat. The informant's case is that on his enquiries he came to know that the said accused Usman Ahmed Khan had prepared forged documents and had taken loan on that basis from Dombivali Nagari Sahakari Bank and took illegal possession of that flat. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant is a branch manager of that bank at Borivali branch.

The main accused Usman Ahmed Khan had applied for loan for purchasing that flat. The Applicant had followed due procedure by calling for search report from legal adviser of the bank. He also got a letter from the builder Amit Palshetkar and thereafter the loan was sanctioned. The Applicant has nothing to do with the dispute between the informant and the builder. He had acted in accordance with rules and regulations. He has not committed any offence.

5. Learned counsel for the Applicant relied on the search report, builder's letter and the Applicant's own visit report to that flat. He submitted that the search report mentioned the Flat No.104, but it appears that flat No.102 and flat No.104 were of the same flat. He further submitted that the FIR is lodged in the year 2019. The charge-sheet is filed against the co-accused. Therefore at this stage the Applicant's custodial interrogation is not necessary at all.

6. Learned APP submitted that the Applicant's name was revealed by the bank in the investigation. In the meantime

different Investigating Officers were investigating in this offence and therefore no immediate steps were taken against the Applicant. She submitted that the Act of the Applicant has ultimately benefited the main accused illegally and therefore the Applicant's custodial interrogation is necessary.

7. I have considered these submissions. I have perused the copies of the documents relied on by the learned counsel for the Applicant. The legal team of Applicant's bank has given legal opinion regarding flat No.104, 'A' wing in that building on 12/04/2018. The information refers to an agreement for sale dated 04/04/2018 executed between Vikas Mane as the 'Vendor' and the accused No.1 Usman Ahmad Khan as the 'Vendee'. The certificate and information of the legal team also mentions that Usman Ahmad Khan had valid, clear and marketable title of flat No.104 in Sai Akruti Empire building. The information is accompanied by the search report.

8. The builder Sai Ninad Enterprises has also given a letter to the bank regarding transaction between Vikas Manek -

the first owner and Usman Ahmad Khan - the purchaser. Therefore at this stage, there are sufficient documents in favour of the Applicant, which show that he acted on the basis of legal information and the documents tendered to him. Therefore there is a strong possibility that he has done this in good faith. It is difficult to attribute illegal motive to the Applicant. The FIR itself is quite old. The written complaint was given by the informant in May 2018. The FIR was registered on 04/01/2019. The investigation is completed and the charge-sheet is filed against the co-accused. Therefore in this background, the Applicant's custodial interrogation is not necessary. He can be protected by an order of anticipatory bail.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.I-3/2019, dated 04/01/2019, registered with Navghar Police Station, Bhayandar, District Thane, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of

Rs.30,000/- (Rupees Thirty Thousand Only)
with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)