

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 501 OF 2020**

Sikandar Suleman Loladiya	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH

**INTERIM APPLICATION ST NO.14129 of 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 501 OF 2020**

Paresh D. Jain	.. Applicant
Versus	
The State of Maharashtra & Anr	.. Respondents

...

Mr. Rizwan Merchant with Mandar Soman, Divakar Rai i/b
R.S.Rane for the applicant.
Mr.S.V.Gavand, APP for the State.
PI Shri Vivek Bhonsle from L.T. Marg police station

**CORAM: BHARATI DANGRE, J.
DATED : 30th SEPTEMBER, 2022**

P.C:-

1 The applicant was protected from arrest vide order dated 20/2/2020 and though there is some conundrum over the issue whether the said interim relief was continued.

The fact remains that the Investigating Officer has not proceeded to effect the arrest of the applicant.

2 The applicant face accusation under Sections 420, 467, 423, 120B r/w Section 34 of IPC and Section 13 of the MOFA Act.

The case of the prosecution which can be discerned from the charge-sheet, which has been filed against Hifzur Rehman Abdul Hamid Ansari, accused no.1 in the said C.R would reveal that the applicant is a partner in M/s.Adorable Construction and the informant is the Director in one M/s.Irfan Project Pvt.Ltd.

It is the case of the informant that the partners of his construction company made entrustment with an intention to sell five flats to the informant's company but bogus documents were prepared. He, therefore, filed complaint before the Metropolitan Magistrate u/s.156(3) of Cr.P.C, pursuant to which FIR came to be registered with L.T. Marg police station in the year 2015.

3 The case of the applicant is to the effect that the applicant is not a signatory except to the memorandum of understanding and he has not sold the alleged five flats which were assured and reserved for the informant. By inviting my attention to the notice in Form "E" issued under the Indian Partnership Act, dated 28/12/2012, it is sought to be canvassed that the present applicant have retired from the partnership with

effect from 1/10/2012 and one Irfan Lakdawala has joined as a new partner.

The Retirement cum-Admission Cum Reconstitution of Partnership deed is also placed on record.

5 Mr. Rizwan Merchant has invited my attention to an order passed by the Sessions Court on 18/2/2020 in case of Hizbul Rehman Abdul Hamid Ansari vs State of Maharashtra in Bail Application No. 423/2020, where the learned Judge has recorded that when the allegations which are levelled are carefully perused, it is case of breach of contract and there is a remedy to initiate proceedings for purpose of the contract against the applicant and co-accused.

When particularly asked whether this order has been challenged in the highest forum, the answer is in the negative. Instead of that, a complaint came to be filed before the Magistrate. Recording that the nature of dispute is civil and charge-sheet has been filed on completion of the investigation, Bail Application of co-accused is granted.

6 As far as the present applicant is concerned, now the material in form of a charge-sheet filed against the main accused is already available, and I see no reason why after lapse of two years, in respect of MECR, which is registered 7 years back, the custodial interrogation is warranted.

The response of the learned APP on behalf of the Investigating Officer, is custody is required for the purpose of restoring the flats of the informant.

I do not think that this is the purpose of custodial interrogation.

7 The applicant, therefore, deserve protection from arrest. He shall, however report to the Investigating Officer between 10th October 2022 to 12th October 2022 and render his co-operation in the investigation.

ORDER

- (a) In the event of his arrest, the Applicant – Sikandar Suleman Loladiya in connection of MECR No.20/2015 registered with L.T.Marg police station shall be released on bail on furnishing P.R. bond to the extent of Rs.50,000/- with one or more sureties of the like amount.
- (b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicant shall make himself available as and when required by the Investigating Officer.

4. The Application is allowed in the aforestated terms.

In view of the disposal of ABA No.501/2020, IA do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)