

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.729 OF 2022

Navnath Mahadev Gaikwad

...Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Shaishv Tilak Savla for the Applicant.

Mr.R.M. Pethe, APP for the Respondent-State.

Mr.Hanumant Bhosale, PSI, Swargate Police Station, Pune.

CORAM : C.V. BHADANG, J.

DATE : 23 MARCH 2022

P.C.

. By this Application, the Applicant, apprehending arrest, in connection with the investigation of Crime No.140 of 2021 registered with Swargate Police Station, under Section 420, 406 read with Section 34 of Indian Penal Code, is seeking anticipatory bail.

2. The aforesaid crime, is registered on the basis of the complaint dated 12 August 2021 lodged by Panditrao Patil who is the Chairman of Anand Park Co-operative Housing Society, Pune. The applicant was in the employment of the said society for the purpose of collection of the maintenance charges and for deposit of the same in the bank account of the society, issuing

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receipts and to perform all incidental duties related to the collection of such maintenance charges.

3. There was yet another employee who is co-accused Arif who was also collecting the maintenance charges from the members. Such maintenance charges used to be paid by the members either in cash or cheque or through bank entries by NEFT etc. Insofar as the payment in cash is concerned the Applicant and Arif Abdul Rajjak Shaikh used to pass receipts.

4. In short there was a discrepancy as to the reconciliation of the amount which was collected by the Applicant and the co-accused in cash and the one which was deposited in the bank account. It is in these circumstances, that the complaint came to be lodged alleging misappropriation and cheating.

5. In this case the accused Arif was arrested and has been released on regular bail.

6. I have heard the learned counsel for the parties. Perused record.

7. The learned counsel for the Applicant pointed out that out of the total amount only two entries namely an amount

of Rs.11,688/- collected from Amruta Gundeja dated 16 December 2020 and Rs.9,000/- collected from Rajmal Shah on 17 March 2021 were collected by the Applicant. It is submitted that the Applicant had handed over the cash which was collected to co-accused Arif Shaikh and the Arif Shaikh has failed to deposit the amount in the bank account of the society. It is submitted that without prejudice to the said contention the Applicant has paid a total amount of Rs.20,688/- by cheque to the Society, which has been encashed.

8. There is a communication signed by the Chairman, Treasurer and the Secretary of the society addressed to the Police Inspector, Swargate Police Station, indicating that the shortfall is to the extent of Rs.3,92,929/-.

9. The learned APP has also pointed out to a communication from the society claiming that the co-accused Arif Shaikh had accepted liability in respect of a substantial part of the said amount.

10. After hearing the learned counsel for the parties, I find that the dispute is essentially about the reconciliation of the amount and at any rate is a monetary dispute between the society and its employees namely the Applicant and the co-accused Arif.

11. Considering the nature of the allegations made and the fact that the Applicant has deposited an amount of Rs.20,688/- and co-accused has accepted the responsibility of a substantial part of the amount, I do not find that the custodial interrogation of the Applicant is necessary. The Applicant can be directed to join the investigation.

12. Hence, the following order.

ORDER

(i) In the event of his arrest in connection with investigation of Crime No.140 of 2021 registered with Swargate Police Station, the applicant-Navnath Mahadev Gaikwad be released on bail on executing a P.R. Bond in the sum of Rs.20,000/- with one or two solvent sureties in the like amount.

(ii) The applicant shall report to the Investigating Officer on 28 and 29 March 2022 between 11.00 am to 1.00 p.m. and as and when called by the investigating officer and shall co-operate with the Investigating Agency.

(iii) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.