

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

ANTICIPATORY BAIL APPLICATION NO. 755 OF 2022

Mr. Sharad Sukhdeo Sonawane

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. H.B. Laxmipalli for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd MARCH, 2022.

P. C. :-

. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant for pre-arrest bail, apprehending his arrest in C.R.No.592/2019 registered with Powai Police Station, Mumbai for offences punishable under sections 420, 465, 468 and 471 of the Indian Penal Code.

2. Heard Mr. H.B. Laxmipalli, learned counsel for the Applicant and Ms. Rutuja Ambekar, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. It is to be noted that the Applicant herein had filed Anticipatory Bail Application No.2573/2019 wherein this Court (Coram : Sandeep K. Shinde, J.) vide order dated 04/02/2020 had granted interim bail in view of the undertaking given by the Applicant to pay Rs.16,00,000/- to the complainant within four weeks along with further undertaking that Rs.8,00,000/- which was to be paid within two weeks from the date of the order. The said Application came to be dismissed by order dated 09/08/2021 passed by this Court (Coram : M.S. Karnik, J.) for non prosecution and non compliance of order dated 04/02/2020.

4. The Applicant filed another Application being Anticipatory Bail Application No.2117/2021 which came to be dismissed by this Court (Coram : Nitin W. Sambre, J.) by order dated 18/11/2021. The order records that the Applicant had handed over demand draft of Rs.6,00,000/- wherein the name of the complainant was mis-spelt. The Applicant had assured that he would issue fresh demand draft in the correct name and hence, this Court had granted opportunity to the Applicant to issue fresh demand draft in favour of the complainant. The order records that the Applicant did not issue fresh demand draft on the contrary sought adjournment. This Court, therefore, observed that the claim put forth by the complainant that the Applicant had

intentionally issued demand draft my mis-spelling the name of the complainant was justified from the very conduct of the Applicant.

5. On merits, the Court held that the material on record prima facie shows that he has received illegal consideration from the complainant in his account by making false promise. The Court held that necessary ingredients of offence of cheating, forgery are apparent. The Court further observed that though opportunity was given to the Applicant to make good the financial loss to the complainant, the conduct of the Applicant reveals that he has no intention to repay the amount which he had illegally received by making false promise of allotment of flat under MHADA. This Court therefore observed that the Applicant was prima facie involved in the serious crime and custodial interrogation of the Applicant was necessary and hence, held that no case for bail was made out and accordingly, rejected the Bail Application.

6. Even after rejection of the Bail Application on merits, the Applicant filed yet another Application being Anticipatory Bail Application No.223/2022 which was disposed of by this Court (Coram : Sarang V. Kotwal, J.) by order dated 01/02/2022. This Court took note of observations made by this Court (Coram : Nitin W. Sambre, J.) in

order dated 18/11/2021 in ABA No.2117/2021 and expressed disinclination to grant the relief, at which stage, learned counsel for the Applicant sought unconditional withdrawal of the Application and accordingly, the ABA No.223/2022 was allowed to be withdrawn.

7. It is seen that after withdrawing the said Application, the Applicant filed fresh Bail Application before the Sessions Court. The Applicant has not placed on record copy of the Bail Application filed before the Sessions Court. Nevertheless, the said Application has been dismissed by the learned Sessions Judge whereupon the Applicant has filed this Application for pre-arrest bail.

8. Learned counsel for the Applicant has not been able to explain as to how the Applicant could file fresh Application before the learned Sessions Judge once his Application for pre-arrest bail was dismissed on merits by this Court. The conduct of the Applicant in filing applications after applications, even after dismissal of Application on merits is nothing but abuse of process of law and needs to be deprecated by imposing heavy costs. Under the circumstances, the Anticipatory Bail Application No.755/2022 is dismissed with costs of Rs.10,000/- to be paid to the State Legal Services Authority. The

Applicant shall produce the receipt of payment of costs before the concerned Investigating Officer within a period of four weeks.

PREETI
H JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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