

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

ANTICIPATORY BAIL APPLICATION NO.1050 OF 2021

Mohamad Abrar Mahmad Sayeed Khan Applicant
Versus
The State of Maharashtra Respondent

Mr. Mayur Vinod Faria, Advocate for the Applicant.
Smt. A.A. Takalkar, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th JANUARY, 2022
[THROUGH VIDEO CONFERENCING]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.18/2021 registered at Vashi Police Station, Navi Mumbai on 17.1.2021 under Section 406 of the Indian Penal Code.

2. Heard Shri Mayur Faria, learned counsel for the Applicant and Smt. A.A. Takalkar, learned APP for the State.

3. The FIR is lodged by one Hidayat Sarvat Hussain

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Khan. He has stated that he is in the business of real estate development. In November 2019, the applicant came to his office. The applicant was a broker. He told the informant that the applicant's acquaintance Gopalkrushna Sharma wanted to sell his old house at plot No.115, Sector 8, Vashi, Navi Mumbai. The applicant took the informant to that place and showed the house. The informant decided to purchase that house. There was a meeting. That time, Gopalkrushna quoted the price at Rs.75 Lakhs. The informant agreed for that amount. It is mentioned in the FIR that it was decided that the said house was to be purchased in the joint names of the informant as well as the present applicant. Accordingly, Gopalkrushna Sharma executed an indemnity bond and affidavit-cum-undertaking on 12.12.2019. Similarly, he filed an application with CIDCO for transfer of his house in the names of the informant and the applicant. On 16.12.2019 and 17.12.2019, the informant, in all, transferred Rs.9 Lakhs in the account of Gopalkrushna Sharma. Thereafter, the informant pursued this matter with Gopalkrushna and showed

willingness to make payment of the balance amount. However, Gopalkrushna avoided him and did not complete the transaction. No agreement was registered. The informant came to know that Gopalkrushna sold that house on 8.7.2020 to one Guddusab Ramjan Mujawar. The informant realized that he was cheated and, therefore, this FIR was lodged.

4. Learned counsel for the applicant submitted that the FIR did not show that the applicant has received any amount. He is not the beneficiary and, therefore, the applicant's custody is not necessary.

5. Learned APP, on the other hand, opposed this application. She produced the investigation papers before me, and in particular, relied on the statement of one Sanjiv Jaggi alias Sanjiv Patil. He has stated that in January, 2020 the applicant had approached this witness and had told him that he had a property of Gopalkrushna being plot No.115, Sector 8, Vashi, Navi Mumbai for sale. The applicant took this witness as well to the same property. Thereafter it was decided that said property would be sold for Rs.1,26,00,000/-.

The applicant introduced this witness to Gopalkrushna. This witness had also paid Rs.1 Lakh in cash to the applicant. While taking search, this witness came to know that Gopalkrushna had already sold this property to somebody else. The applicant and others had taken Rs.2 Lakhs from this witness and had not returned that amount.

6. I have considered these submissions. The incident in the FIR is not an isolated incident. The statement of the witness Sanjiv @ Jaggi Patil shows that the applicant knowingly showed him the same property purportedly belonging to Gopalkrushna Sharma. That was done in January, 2020 i.e. within a very short time after same property was agreed to be sold to the first informant Hidayat Sarvat Hussain Khan in this case. Thus, the applicant had knowingly made the informant and this witness to enter into transactions with Gopalkrushna and had accepted monies from them. Though the first informant paid money to Gopalkrushna, the witness Sanjiv @ Jaggi Patil had paid money to the applicant.

7. The applicant's *modus operandi* is clear. Different

buyers are cheated and, therefore, the offence assumes seriousness. Custodial interrogation of the applicant is necessary. No case for grant of anticipatory bail is made out. The application is rejected. Earlier interim order stands vacated.

(SARANG V. KOTWAL, J.)

Deshmane (PS)