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

ANTICIPATORY BAIL APPLICATION NO. 2368 OF 2022

Mr. Umang Bharatbhushan Madan Applicant.

V/s

The State of Maharashtra Respondent.

Mr. Ashutosh Thipsay i/b Mr. Anup Lahoti for the Applicant.

Mr. N.B. Patil, APP for the Respondent/State.

PSI Shamal Patil, Chatushrungi Police Station, Pune, present.

CORAM: NITIN W. SAMBRE, J.

DATE: SEPTEMBER 22, 2022

P.C.:-

1] Heard.

2] Applicant is seeking pre-arrest bail in C.R. No.306 of 2022 registered with Chatushrungi Police Station, Pune for the offences punishable under Sections 420, 406 read with section 34 of the Indian Penal Code.

3] The case of the prosecution is, complainant entered into Memorandum of Understanding dated 13th June, 2019 wherein he has parted with an amount of Rs 35 lakhs. It is claimed that Applicant promised delivery of Flat admeasuring 1094 sq.ft carpet area i.e. Flat No.701. It is also claimed that in case if Applicant failed to return the

amount of Rs 47,50,000/- against the aforesaid amount of Rs 35,00,000/- by 13th September, 2020, the sale agreement was to take effect.

4] Contentions of Counsel for the Applicant are, Applicant has already paid an interest of Rs 7,00,000/- to the complainant through bank transaction. In addition, his contentions are, it is purely a commercial money lending transaction and that being so, it is always open for the complainant to move for recovery of the amount. He would urge that there is no element of cheating in the case in hand, particularly having regard to the recitals in the Memorandum of Understanding.

5] Learned APP would urge that there are other similar complaints received against the Applicant and the Applicant is in a habit of committing similar type of offences. It is further claimed that neither Flat is delivered to the complainant nor the entire amount as was promised has been returned, as such necessary ingredients are made out which warrants custodial interrogation of the Applicant.

6] I have appreciated said submissions.

7] Plain reading of the Memorandum of Understanding executed between the Applicant and the complainant on 13th June, 2019 primarily speaks of money lending transaction. Aforesaid observations are fortified in view of the fact that the complainant has received

interest of Rs 7,00,000/- in his account against the amount of Rs 35,00,000/- which was advanced. In this backdrop, claim put-forth that Applicant has cheated the complainant cannot be accepted, particularly when complaint is based on twisted facts. In the aforesaid backdrop, very involvement of the Applicant in the offence in question is under cloud. That being so, case for confirmation of ad-interim protection is made out.

8] Applicant in the event of his arrest in C.R. No.306 of 2022 registered with Chatushrungi Police Station, Pune for the offence punishable under Sections 420, 406 read with section 34 of the Indian Penal Code, be released on bail on executing PR. Bond of Rs 15000 /- with one or more sureties in the like amount. Applicant shall neither influence the witnesses in any manner nor tamper with the evidence. Applicant shall attend the Investigating Officer of the concerned Police Station from 28th September, 2022 to 2nd October, 2022 between 10.00 A.M. and 12.00 Noon and thereafter as and when directed by the Investigating Officer.

9] Application is disposed of.

(NITIN W. SAMBRE, J.)