

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2371 OF 2022**

Ahmed Hussain Mumtaz Hussain Sayed .. Applicant
Versus
The State of Maharashtra .. Respondent

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Mr. Ganesh Gole a/w Piyusha Patil i/b Ritesh Ratnam for the Applicant.

Ms. Anamika Malhotra, A.P.P. for the State/Respondent.

Mr. Sanjay Vitthal Chavan, API, Nagpada Police Station, Mumbai.

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**CORAM: BHARATI DANGRE, J.
DATED : 29th AUGUST, 2022**

P.C:-

1. Heard the learned counsel Mr. Gole for the applicant and the learned APP for the State.

The applicant is arraigned as an accused in CR No. 349 of 2022 registered with Nagpada Police Station, which invoke section 420, 468, 470, 471 of IPC.

The subject CR came to be registered on the complaint filed by Abdul Gafar Sabuwala, who reported to the police station on 29/06/2022, stating that in the year 2012 he had purchased the subject room no. 601 situated on 6 floor of JIA Apartment, Belasis road Nakpada, for consideration of Rs. 40,00,000/-, from one Rubeena Hussain Shaikh, the widow of Hussain Shaikh. The same was

purchased in the name of the complainant's daughter Seema Abdul Hamid, and she was put in possession of the said property.

In the year 2012, she left Mumbai, and therefore was unable to ascertain the subsequent development. On 29/06/2020 it was noticed that her name plate was removed and name of one Fatima Hussain Shaikh, the second wife of Hussain was displayed on the said room. One Shri. Sayyed i.e. present applicant was found in the possession of the said room and when inquired he informed that he had purchased the same from second wife of Hussain, namely Fatima Husain Shaikh. Upon this transaction he also submitted an affidavit and a no objection certificate for transferring the meter in his name.

It is alleged that the said no objection and the affidavit is a fraudulent one.

2. Learned APP has placed on record, the relevant documents being the no objection certificate under the signature of Hussain Shaikh, who had stated, that according to the no objection accorded for change of name in favour of Sayyed Hussain, do not make any reference to any basis, on which the name is changed. An affidavit cum bond was also submitted by the present applicant, where he is aware that Hussain Shaikh expired long back ago and his widow Fatima was desirous of transferring the property in his name and therefore he made an application of transfer of the electricity bill in his name by paying necessary charges to BEST.

3. When Mr. Gole was asked to submit basic document of his title, he has tendered on record the affidavit filed by Fatima Hussain Shaikh dated 31/07/2013, where she state that she propose to transfer the property in the name of the applicant along with an irrevocable general power of attorney executed in his favour to pay maintenance/ tax charges in respect of flat no. 601, and to obtain receipt from the

Chairman/ Secretary of the Society in her name and to take care of the said flat, which was in name of her husband.

4. As against the right which is claimed by the complainant as the bonafide purchaser of the flat from Rubeena Shaikh by paying proper consideration, the applicant appears to be a clear usurper. Merely because a suit has been filed by the daughter of the complainant, and by stating that there is no interim order, the applicant does not deserve any protection and the police shall investigate the accusations faced by the applicant.

The application is rejected.

(SMT. BHARATI DANGRE, J.)