

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2479 OF 2021

Nandkishore Harikishan Attal ...Applicant

Vs.

The State of Maharashtra ... Respondent

SNEHA
NITIN
CHAVAN

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Mr. Pradeep Pardeshi for the Applicant.

Mrs. M.R. Tidke, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 24 MARCH 2022

P.C.

. The Applicant, apprehending his arrest, in connection with the investigation of Crime No. 630 of 2021 registered with Bhosari Police Station, Dist. Pune under Section 406 and 420 of IPC, is seeking anticipatory bail.

2. The aforesaid crime is registered on the basis of the complaint dated 24.09.2021 lodged by Manmitkaur Jaspalsingh Ghai. According to the informant, she had agreed to purchase Flat No. M-101 Marvel Diva, from the present Applicant and an amount of Rs.51,000/- was paid as earnest. The flat was owned by *Vaishnodevi Dairy Products Ltd., Hadapsar* of which the Applicant is one of the Directors. The flat was agreed to be purchased for an amount of Rs.4,15,00,000/- The informant

claims that an amount of Rs.21 lakhs was transferred from his account to the account of *Vaishnodevi Dairy Products Ltd.* However, the Applicant has failed to execute the sale deed inspite of the efforts.

3. I have heard the learned counsel for the Applicant and the learned APP.

4. The learned counsel for the Applicant has submitted that somewhere in September 2021, a Corporate Insolvency Resolution Process (CIRP) in respect of *Vaishnodevi Dairy Products Ltd.* was initiated and the matter is presently pending before the National Company Law Tribunal ('NCLT'), Mumbai. All the properties of the company are subject to said insolvency proceedings. The learned counsel for the Applicant submitted that the informant was asked to get the sale deed executed prior to initiation of the proceedings. However, there was no response. In the submission of the learned counsel for the Applicant, today it is not within the power of the Applicant to execute the sale deed as the matter is subjudice before the NCLT. It is submitted that the dispute is of a civil nature.

5. The learned APP submitted that in the circumstances this Court may pass appropriate order.

6. The record discloses that on 25.10.2021 interim protection was granted to the Applicant which has been continued from time-to-time.

7. I have considered the circumstances and the submissions made. The Applicant has produced the papers about the initiation of the CIRP in respect of *Vaishno Devi Dairy Products Ltd.* which shows that the matter is pending before the NCLT. It can thus be seen that it may not be within the powers or competence of the Applicant, now to take steps for execution of the sale deed. In any event, prima facie it appears that the dispute is of a civil nature pertaining to the specific performance of the agreement for purchase of the flat by the informant.

8. In such circumstances, the following order is passed:

ORDER

i) In the event of his arrest, in connection with the investigation of Crime No. 630 of 2021 registered with Bhosari Police Station, Dist. Pune, the Applicant **Nandkishore Harikishan Attal** be released on bail on executing a PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

ii) The Applicant shall report to the Investigating Officer on 30.03.2022 and 31.03.2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the Investigating Officer.

iii) The Applicant shall co-operate with the Investigating Agency and shall not tamper with the prosecution evidence/witnesses.

iv) It is made clear that the observations herein are only for the purpose of disposal of the application for pre-arrest bail and shall not be used in any of the proceedings either before the NCLT or any civil proceedings, if initiated.

v) The criminal application is disposed of accordingly.

C.V. BHADANG, J.