

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

ANTICIPATORY BAIL APPLICATION NO. 2387 OF 2022

Mr. Pravin Prabhakar Suryawanshi	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Virendra Pethe i/b. Mr. B.D. Joshi for the Applicant.
Mr. P.H. Gaikwad, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 22nd NOVEMBER, 2022.

P. C. :-

. The Applicant has filed this Application under section 438 of Cr.P.C. apprehending his arrest in C.R.No.I-204/2022 registered at Manmad City Police Station, Nashik for offences punishable under sections 420, 406, 506 of the Indian Penal Code.

2. Learned counsel for the Applicant submits that the Applicant could not commence construction in time due to Covid-19 pandemic. He subsequently completed the construction till the plinth level. He submits that the cost of the construction had gone up and the Applicant had requested the complainant to give escalated price which was rejected and since it was not feasible to complete the construction as per the old price, the Applicant abandoned the work.

3. Learned APP states that the Applicant was paid total amount of Rs.3,00,000/- and that he abandoned the construction without any reason. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The crime against the Applicant was registered pursuant to the FIR lodged by Kishor Murlidhar Parashar. A perusal of the FIR reveals that the Applicant was given a contract to renovate Hanuman Temple, Malegaon, near Manmad City. The Committee appointed by the villagers and the Applicant herein had entered into an agreement dated 26/05/2020 whereunder the Applicant was to construct Hanuman Temple for cost of Rs.8,51,000/- payable as per the payment schedule mentioned in the agreement.

5. The grievance of the Complainant is that the Applicant had abandoned the construction of the temple. It is stated that the Applicant had received total Rs.3,00,000/- even though he had not completed the construction till plinth level. Whereas the Applicant claims that he was unable to complete the construction because of the outbreak of Covid-19 pandemic. He further states that he had

abandoned the work since the Committee had rejected his request to pay escalated price. One of the clauses of the agreement prima facie indicates that the Committee had agreed to pay escalated price in the event the villagers were unable to get the construction work completed within a period of six months. The material on record does not indicate that the Applicant had intention to deceive the Committee. Refusal to complete the constructions for non payment of escalated price would not prima facie constitute offence of cheating.

6. The Applicant is on interim bail since 29/08/2022. He has been interrogated. It is stated that investigation has been completed. Hence, the presence of the Applicant is not required for custodial interrogation. Considering the nature of the accusations and the material in support thereof, in my considered view, this is a fit case for grant of pre-arrest bail. Hence, the Application is allowed on the following terms and conditions :-

- (a) In the event of arrest of the Applicant in C.R.No.I-204/2022 registered at Manmad City Police Station, Nashik, he shall be released on bail on furnishing bail bonds in the sum of Rs.20,000/- with one or more sureties in the like amount ;

(b) The Applicant shall report to the Investigating Officer for three days from 28/11/2022 between 10:00 a.m. to 01:00 p.m. and as and when required by the Investigating Officer ;

(c) The Applicant shall not interfere with the complainant and the other prosecution witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

7 The Application stands disposed of.

**PREETI
H JAYANI**

Digitally signed by
PREETI H JAYANI
Date: 2022.12.01
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(SMT. ANUJA PRABHUDESSAI, J.)