

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2739 OF 2022

Abhijit Sudam Pansare	...Applicant
Versus	
The State Of Maharashtra	...Respondent

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Mr. Sushant Prabhune, Advocate for the Applicant.

Mr. M. G. Patil, APP for the Respondent – State.

Mr. H. H. Mulani, Police Constable Bhigvan Police Station.

CORAM	:	PRAKASH D. NAIK, J.
DATE	:	4th October, 2022.

PER COURT:

1. This is an application under Section 438 of Cr.Pc. The applicant is apprehending arrest in C.R. No.222 of 2022 registered at Bhigvan Police Station for offences under Section 504 and 506 of the Indian Penal Code and Section 39 and 40 of Money Landers Act. The complainant has alleged that, he had obtained loan of Rs.1,00,000/- from the accused on the interest rate of 10% per annum and at the relevant time the Isar Pavti of first informants land having Gut No.22 situated at Bhadalwadi, having area 00.40R was executed on 18th June, 2022 and later on the amount of Rs.1,00,000/- was received by the complainant. In the meantime, the first informant sold the aforesaid land to his cousin Raosaheb Giramkar and Dattatray Giramkar on 22nd

June, 2022. After selling the land, when the complaint had been to the complaint to repay the borrowed amount. The accused accepted an amount of Rs. 1,10,000/- with interest but refused to hand over the Isar Pavti to the first informant. The complainant was abused and threaten hence, the F.I.R. was registered.

2. The submission of the applicant is that, the entire F.I.R. has been concocted. Although there was the transaction of sale in respect to the said property between applicant and complainant, to avoid the same, the complainant had deliberately executed the sale deed with his cousin. False claim is made that, the applicant is refusing to hand over the Isar Pavti. Although the payment of Rs.1,10,000/- is made through him. The transaction of the applicant and informant was of agreement of sale and earnest amount was already paid as admitted by the first informant himself. The informant had deceived the applicant and executed the transaction with other persons. Legal notice was issued at the instance of the applicant to the informant raising the grievance of illegal sale deed executed in favour of third party. The applicant also filed a complaint with Talathi and made grievance about illegal sale deed. The circle had issue notice to all concerned parties in respect to the complaint made by the applicant. The first informant had filed reply to the said complaint but the reply is silent about the allegations of

money lending and threat etc.

3. Learned APP submitted that, the document executed by the informant with the applicant itself indicates that, the case of the applicant is not genuine. The contention of the applicant is not proved. The applicant is refusing to hand over the Isar Pavti.

4. On perusal of the documents it is apparent that, the agreement was executed with the applicant prior to execution of sale deed with third party i.e. his cousins by the first informant. The applicant had made his grievances with concerning authorities. Considering the nature of dispute, the applicant need not be subjected to custodial interrogation. Hence, case for granting relief under Section 438 of Cr.P.C. is made out.

5. Learned counsel for the applicant has pointed out that, the name of the father of the applicant has been mentioned as Sudam in the First Information Report. Although the correct name is Sudarshan and since, the application preferred before the Sessions Court and in view of the contents of the F.I.R. the applicant has mentioned the name of his father in the title of the application as Sudam.

ORDER

- (i) Criminal Anticipatory Bail Application No. 2739 of 2022 is allowed.
- (ii) In the event of arrest of the applicant in connection with C. R. No.222 of 2022 registered with Bhigvan Police Station. The applicant be released on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report Investigating Officer on 11th, 12th and 13th October, 2022 between 11:00 a.m. to 1:00 p.m. and there after as and when called for till filing the charge-sheet.
- iv. Criminal Anticipatory Bail Application disposed off.

(PRAKASH D. NAIK, J.)