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

ANTICIPATORY BAIL APPLICATION NO.635/2022

KAILASH KANHAIYALAL PHULPAGARE ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

**WITH
INTERIM APPLICATION NO. 3620/2022
IN
ANTICIPATORY BAIL APPLICATION NO.635/2022**

PRIYA AMIT CHAUDHARI ..APPLICANT
VS.
THE STATE OF MAHARASHTRA ..RESPONDENT

Mr. Sameer D. Hatle i/b. Mr. Dashrath S. Hatle for the
applicant.
Ms. A. A. Takalkar, APP for the State.
Mr. G. J. Jain for the complainant.
Mr. Bharat T. Chaudhari, PI, Vartak Nagar Police Station.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 2, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 420, 406, 465, 468, 471 read with 34 of the Indian Penal Code, 1860 in

connection with C.R.No.0358/2021 lodged with Vartak Nagar Police Station.

3. The informant Priya Amit Chaudhari, a medical practitioner, has filed the First Information Report (FIR). It is alleged that the applicant, who is the Police Head Constable used to visit the clinic of the informant. The informant was in search of the suitable place for her clinic. The applicant introduced Saurabh Vartak to the informant sometime in January 2018. The applicant as well as Saurabh informed the applicant that they will arrange a shop for the informant at Dharmaveer Nagar, Tulshidham and for that she has to purchase a shop from Mr. Kishor Gupta. The informant paid Rs.1 lakh by cheque and thereafter, another sum of Rs.1 lakh. Further sums were paid. It appears that despite making payment, the applicant and Saurabh avoided to provide the premises and therefore, she requested them that the money which was paid by her to them should be refunded. The informant paid total Rs.10,23,000/- and therefore, the offence came to be registered.

4. The informant is present in the Court. The parties have agreed to put an end to the matter and accordingly, the affidavit-cum-undertaking is filed by the applicant. The affidavit-cum-undertaking is taken on record and marked as **Exhibit 'X'** for identification.

5. It is stated in the affidavit-cum-undertaking that the monies which have been paid by the informant will be returned back. Though it is the contention of learned counsel for the applicant that it is Saurabh Vartak who have cheated the informant, nonetheless to show the bonafides, the applicant is willing to repay the money. An amount of Rs.4 lakhs in terms of the affidavit-cum-undertaking has been paid and the balance in terms of the affidavit-cum-undertaking is agreed to be paid.

6. Learned APP submitted that there are two more victims. To show the bonafides learned counsel for the applicant submitted that an amount of Rs.4,50,000/- will be deposited with the Judicial Magistrate First Class, Thane, on or before March 31, 2023 which will be abide by the further orders may be passed, over and above what is undertaken

to be paid towards the claim of the informant herein. Hence the following order.

ORDER

- (a) Application is allowed.
 - (b) In the event of arrest in connection with C.R.No.0358/2021 lodged with Vartak Nagar Police Station, applicant- Kailash Kanhaiyalal Phulpagare shall be released on bail on furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.
 - (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
 - (d) The applicant shall report to the Investigating Officer as and when called.
 - (e) The applicant shall strictly abide by the affidavit-cum-undertaking. If it is found that he is in default of the payments in terms of the schedule, such default will be viewed very seriously.
- 7. The application is disposed of.
 - 8. The interim application is also disposed of.

(M. S. KARNIK, J.)