

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3372 OF 2023**

Mohammad Hanif Hamja Mulla ... Applicant
versus
The State of Maharashtra ... Respondent

Mr. B.A.Lawate, for Applicant.
Ms. Anamika Malhotra, APP for State.
Mr. Sunil B. Padalkar, PC, Khed Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 4 DECEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.339 of 2023 registered with Khed Police Station for the offences punishable under Sections 420, 406, 403, 465, 468, 471 read with Section 34 of the Indian Penal Code.
3. The first informant had purchased a premises situated at Khed under a Registered Sale Deed dated 10 July 2017 from Nafisa Parkar, who claimed to be the absolute owner thereof. The first informant parted with a consideration of Rs.20 Lakhs. In the month of February 2023, the first informant was served with a notice by Bank of Maharashtra to the effect that security interest was created over the said premises by Mr. Javed Parkar and Mohammad Mulla, the applicant herein. Without clearing the encumbrance on the said property, the said premises was sold to Nafisa

Parkar on 23 December 2015 and Nafisa Parkar had, in turn, conveyed the same to the first informant. Hence, the report.

4. The learned Counsel for the Applicant submitted that the applicant had not executed any instrument in favour of the first informant. He was not a party to the instrument under which the first informant had acquired the subject premises. The applicant had, thus, neither made any false representation nor induced the first informant to part with any amount. The learned Counsel further submitted that the first informant has instituted a Special Civil Suit No.48 of 2023 and the Civil Court has directed the parties to maintain status quo.

5. Prima facie, it appears that there is no privity of contract between the applicant and the first informant. In the sale deed executed by the co-accused Nafisa Parkar, the vendor of the first informant, there is a reference to the fact that the applicant and co-holder Javed Parkar had sold the subject premises to Nafisa Parkar on 23 December 2015, under a registered sale deed. It does not appear that the factum of the sale of the subject property by the applicant to the vendor of the first informant was suppressed. In any event, the offences revolve around documents. The custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. The applicant appears to have roots in society. I am, therefore, inclined to exercise the discretion in favour of the applicant.

6. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Mohammad Hanif Hamja Mulla in connection with C.R.No.339 of 2023 registered with Khed Police Station, Ratnagiri, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The Applicant shall co-operate with the investigation and report to Khed Police Station on 11th and 12th December 2023 in between 10.00 a.m. to 1.00 p.m., and thereafter, as and when directed.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(v) The application stands disposed.

(vi) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)