

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3384 OF 2023

Javed Yusuf Parkar ...Applicant

vs.

The State of Maharashtra ...Respondent

Mr. Aniket Vagal a/w. Mr. Kunal Pednekar and Mr. Savvy Kolhekar,
for the Applicant.

Ms. Anamika Malhotra, APP, for the Respondent/State.

Mr. Sanjay Chavan, API, Khed police station present.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 5, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned
APP for the State.

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 10th July 2017 from Nafisa
Parkar, who claimed to be the absolute owner thereof. The first
informant parted with a consideration of Rs.29 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. Mr. Vagal, the learned counsel for the applicant would urge that the applicant had no role in the alleged fraudulent representation made by Nafisa Parkar. The applicant and the co-accused Mohd Hanif Mulla, who has been granted pre-arrest bail, had executed a conveyance in favour of Nafisa Parkar on 23rd August, 2015. Nafisa Parka was fully aware that there was a encumbrance over the subject premises. The applicant has been falsely roped in only for being the relative of Nafisa Parkar.

5. Mr. Vagal further submitted that since co-accused Mohd. Hanif Mulla, who is the co-vendor of Nafisa Parkar, has been granted pre-arrest bail. The applicant is entitled for the same dispensation.

6. Ms. Malhotra, the learned APP, stoutly resisted the prayer for pre-arrest bail. It was submitted with tenacity that the role of the applicant is materially distinct. The applicant was the main beneficiary of the alleged fraud. Attention of the Court was invited to the account which indicates that the amount of Rs. 29 lakhs,

which was credited by the first informant in the account of Nafisa Parkar, was immediately transferred to the account of the applicant.

7. I find substance in the submission of the learned APP. The statement of account of Nafisa Parkar, maintained with Kokan Bank, indicates that the first informant had credited a sum of Rs. 5 lakhs to the account of the co-accused Nafisa Parkar on 29th and 30th June, 2017. On 30th June, 2017 itself the said amount came to be transferred to the account of the applicant. Likewise, the balance consideration of Rs. 24 lakhs was credited to the account of the co-accused Nafisa on 10th July, 2017. On the very next day, the said amount was again transferred by RTGS to the account of the applicant.

8. The endeavour of Mr. Vagal to wriggle out of the situation by asserting that there was a distinct transaction between the applicant and the co-accused Nafisa Parkar does not merit acceptance. In addition, there is material on record to indicate that the applicant had a major role in the sale of the property to Nafisa Parkar which was already mortgaged.

9. Thus there is prima facie material to indicate that the applicant was ultimate beneficiary of the entire consideration which the co-accused Nafisa Parkar had obtained from the first

informant. I am, thus, inclined to hold that there is a qualitative difference between the role attributed to the applicant and that of Mohd Hanif Mulla, the co-vendor. Thus, the claim for parity does not deserve countenance.

10. In the totality of the circumstances, custodial interrogation of the applicant appears indispensable for effective and complete investigation and to unearth the fraud in all its facets.

ORDER

1] The application stands rejected.

2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)