

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

ANTICIPATORY BAIL APPLICATION NO. 205 OF 2023

Rahul Ramprasad Chaturvedi ..Applicant

VS.

The State of Maharashtra and Anr. ..Respondents

Mr. M. K. Kocharekar i/b. Ms. Prabha Badadare for the Applicant.

Mr. S. V. Gavand, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 23, 2023

P.C. :

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

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 420, 406 and 177 of the Indian Penal Code, 1860 and under Sections 3, 5, 8 and 13 of the Maharashtra Ownership Flats (Regulations of the Promotion of Construction, Sale, Management and Transfer) Act, 1963 (hereafter 'MOFA' for short) in connection with C.R. No.506 of 2019 dated 29/08/2019 registered with Narpoli Police Station, Bhiwandi.

3. Learned APP invited my attention to the orders dated 12/03/2020 passed in Criminal Anticipatory Bail Application No.2337 of 2019 and Anticipatory Bail Application No.2984 of 2021 dated 13/12/2021 passed by this Court and observations made therein. In paragraph 6 of the order dated 13/12/2021 this Court observed thus :-

“6] Needless to clarify that this Court neither directed co-accused to deposit the amount nor granted any protection in favour of any of the accused. What is noticed from the conduct of the applicant is, all the co-accused in a calculated manner are keeping the Investigating Officer engaged in the court proceedings by repeatedly approaching this Court thereby misusing provisions/remedies available to them. Order passed by this Court on earlier occasion rejecting the prayer for bail passed on 12/03/2020 is quite clear. Applicant as stated herein above is avoiding investigation purposefully since last two years.”

4. Now this is a third application made by the applicant seeking anticipatory bail.

5. Learned counsel for the applicant submitted that the applicant never had any intention of avoiding payments but there were some unforeseen financial difficulties resulting in not honouring the commitment made. It is now pointed out that the entire money has been paid to the complainant and all the flat purchasers. This Court had in the order dated

12/03/2020 in paragraph 6 observed that possession of flats was not given nor amount was returned to the flat purchasers. Now that the amount has been refunded, in my opinion, the custodial interrogation of the applicant is not necessary in these changed circumstances. It is always open for the investors to pursue their remedies against the applicant under civil laws or any other statutory remedies that may be available. However, the custodial interrogation of the applicant is not necessary.

6. Learned APP submits that the Investigating Officer is not present. If it is found that the statement made on behalf of the applicant is false or incorrect, the prosecution will be at liberty to apply for cancellation of anticipatory bail.

7. Having regard to the observations made in the order dated 13/12/2021, learned counsel for the applicant on instructions submits that the applicant will deposit Rs.50,000/- by way of cost with the Police Welfare Fund within a period of two weeks from today. Statement accepted.

8. Hence, the following order :-

ORDER

- (a) Application is allowed.
- (b) In the event of arrest in connection with C.R. No.506 of 2019 registered with Narpoli Police Station, Bhiwandi, the applicant-Rahul Ramprasad Chaturvedi shall be released on bail on furnishing P.R. Bond to the extent of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant shall report to the concerned police station on 28/01/2023, 29/01/2023 and 30/01/2023 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called till filing of the charge-sheet.
- (d) The applicant to co-operate with the Investigating Officer.
- (e) 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 and shall not tamper with evidence.

(f) The applicant shall furnish the details of his residential address and phone number to the investigating officer.

9. The Anticipatory Bail Application stands disposed of.

(M. S. KARNIK, J.)