

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

ANTICIPATORY BAIL APPLICATION NO.329 OF 2023

Rajiv Sahajnarayan Mishra

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. R.R. Chaudhry for the Applicant.

Mr. Shrikant Yadav, APP for Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 24th MARCH, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.PC. filed by the aforesaid Applicant apprehending his arrest in Crime No.805 of 2021 registered with Samata Nagar Police Station, Mumbai, for the offences punishable under Sections 406, 420, 504 and 506(2) and 120-B of the IPC.

2. Heard Mr. Chaudhry, learned counsel for the Applicant and Mr. Shrikant Yadav, learned APP for Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Smt. Dipali More. A perusal of the FIR reveals that the first informant was desirous of purchasing a flat. The Applicant, who is a broker, showed her one flat, which was owned by one Sanjiv Pradhan and Rashmi Pradhan. A meeting was held and the owners of the Flat agreed to sell the flat to the first informant and her husband for Rs.1,01,00,000/-. The first informant paid an amount of Rs.80,24,250/- to the owner and an amount of Rs.50,000/- was paid to the Applicant as brokerage charges. The first informant subsequently learnt that the flat was attached by the Income Tax Department and hence the first informant lodged the FIR for cheating and misappropriation.

4. The records reveal that the vendors, who had allegedly entered into a MoU with the Complainant without disclosing the factum of attachment of the flat by the Income Tax Department have been granted bail by the Sessions Court. Furthermore, the first informant has already filed a civil suit in respect of the said flat.

5. The Applicant herein had acted only as a broker and the main accused has been granted bail. The Applicant, who was on

interim bail, has co-operated with investigation. Considering these facts and circumstances, in my considered view, this would be a fit case to exercise discretion under Section 438 of the Cr.P.C. in favour of the Applicant. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.805 of 2021 registered with Samata Nagar Police Station, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer;
- (iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)