

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

**ANTICIPATORY BAIL APPLICATION NO.499 OF 2020
WITH
INTERIM APPLICATION (STAMP) NO.14133 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.499 OF 2020**

Altaf Yusuf Lakadawala

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

...

Mr. Bhavesh Parmar with Ms Reshma Nair, Mr. Akash P. Shah and Mr. Rajesh Sahani for the Applicant.

None present for the Intervenor.

Mr. S.V. Gavand, APP for Respondent No.1-State

Mr. Vivek Bhosale, Sr. PI, Gaodevi Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th JULY, 2023.

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P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in MECR No.20 of 2015 registered with L.T. Marg Police Station, Mumbai, for the offences punishable under Sections 120B, 420, 423 and 467 r/w 34 of the IPC.

2. Heard Mr. Bhavesh Parmar, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent-State.

None present for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid MECR was registered pursuant to the order dated 27/03/2015 passed by the learned Additional Chief Metropolitan Magistrate, 47th Court, Esplanade, Mumbai, on an application under Section 156(3) of the Cr.P.C. filed by Respondent No.2-Complainant.

4. The grievance of the Complainant, in brief is that he had entered into a Memorandum of Understanding dated 29/07/2009 with M/s. Adorable Constructions for purchase of 18 flats in the newly constructed building known as Shree Neminath Towers. He claims that he had paid the entire sale consideration of Rs.8,26,58,700/- for these flats constructed in the said Tower and was given allotment letters and put in possession of the said flats. The Complainant alleges that some time in December-2012 he learnt that the partners of M/s. Adorable Constructions had changed the locks of five flats and that they had put CCTV Cameras and kept some bouncers. They refused to execute the sale deed in favour of the Complainant in respect of the

said five flats. He states that on 22/01/2013 there was a meeting between him and the partners of M/s Adorable Constructions and that they had agreed to return the keys of the said five flats. He states that despite the said assurance, partners of M/s. Adorable Constructions did not return the keys. Hence, the FIR.

5. The FIR prima facie reveals that the crime was allegedly committed in the year 2012. The FIR in respect of the said offences was lodged in the year 2015. Learned counsel for the Applicant states that there is dispute between the Applicant and the other two partners of M/s. Adorable Constructions. He further states that the Applicant has also filed a Civil Suit No.303 of 2013 against the First Informant for declaration that the MoU is not binding on the Applicant herein.

6. Be that as it may, as noted above, the FIR is of the year-2015. The Applicant is on interim bail till date. It is stated that though the investigation has been completed, the charge-sheet is not yet filed. Pendency of this application is stated to be the reason for not filing the charge sheet. There is no provision under the Code, which prevents the Investigating Officer from filing charge-sheet during the pendency of anticipatory bail application. The explanation offered is

totally unjustified and unacceptable. There is no gainsaying that right to speedy trial flowing from Article 21 encompasses all stages, including the stage of investigation. Delay in investigation tends to cause prejudice not only to the accused but also to the victim of crime. The Apex Court has time and again emphasized that it is in the interest of all concerned that the guilt or innocence of the accused is determined as expeditiously as possible. The investigating agency is expected rather is duty bound to follow the mandate in letter and spirit.

7. Considering the above facts and circumstances, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in MECR No.20 of 2015 registered with L.T. Marg Police Station, Mumbai, he shall be released on bail on furnishing bail bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the concerned Investigating Officer as and when required by the Investigating Officer for the purpose of investigation;

- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) 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.

The application stands disposed of.

8. The application as well as interim application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)