

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 793 OF 2023**

Ajay Tukaram Jadhav S/o. Tukaram

Jadhav

... Applicant

V/s.

The State of Maharashtra

... Respondent

Ms. M. J. Reena Rolland, Adv. for the Applicant.

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

API Satish Chougule, Meghwadi Police Station, Mumbai.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : MARCH 31, 2023

PC. :

1. This is an application under Section 438 of the Code of Criminal Procedure, 1973 filed by the aforesaid Applicant apprehending his arrest in Crime No. 46 of 2023 registered with Meghwadi Police Station, Mumbai for the offence under Section 420 of the Indian Penal Code, 1860, pursuant to the First Information Report lodged by one Mangesh Madhavrav Bhonde.

2. Heard learned Counsel for the Applicant and learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsel for the respective parties.

3. The facts narrated in the First Information Report reveal that the First Informant was interested in purchasing a room in SRA Project. The Applicant herein informed him that he has a room in SRA Project and he is willing to sell the same for Rs. 27,00,000/-. The Applicant demanded payment of 50% of sale consideration in advance and the balance on handing over the possession of premises. Accordingly, the First Informant paid to the Applicant, the total amount of Rs. 14,00,000/-. The Applicant refused to show him the premises and did not handover any document. The Applicant failed to give the premises and refused to return the money, hence the First Information Report.

4. A perusal of the record *prima-facie* reveals that the Applicant had received from the First Informant total amount of Rs. 13,00,000/-, out of which Rs. 6,00,000/- was paid by cheque and Rs. 7,00,000/- paid in cash. The First Informant had stated that the amount paid to the Applicant in cash, was withdrawn by him from the bank from time to time. The bank entries substantiate this contention. The record reveals that the room which was proposed to be sold, was non-existent. Inducing the Applicant to pay sale consideration for sale of non-existent room *prima-facie* constitutes

offence under Section 420 of the Indian Penal Code, 1860.

5. Considering the aforesaid fact, in my considered view, this is not a fit case to grant pre-arrest bail in favour of the Applicant. Hence, the application stands rejected.

(SMT. ANUJA PRABHUDESSAI, J.)