

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

ANTICIPATORY BAIL APPLICATION NO. 898 OF 2023

Sandeep Gopinath Surve

..Applicant

v/s.

The State of Maharashtra .

..Respondent

Mr. M.A.Choudhari i/b. Mr. Suhas T. Gaikwad for the Applicant.

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

Mr. Santosh Chaudhari , API from Dadar P. Stn.

CORAM : ANUJA PRABHUDESSAI ,J.

DATED : 28th MARCH, 2023.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.42 of 2023 registered with Dadar Police Station for offences under Section 406, 420 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant and learned APP for the 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 Milind Babi Pawar. A perusal of the FIR prima facie reveals that the first informant and his wife were looking out for a house and they

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contacted agent Prasanna Khule, who informed them that a room in Sai Niketan SRA Building No.6, at Prabhadevi was available for sale, for Rs.35 lakhs. Since the price was within their budget, they agreed to purchase the said room. It is stated that they went to see the room along with agent Prasanna Khule. Said Prasanna Khule introduced the first informant to the Applicant and the co-accused. The first information report reveals that the Applicant herein had informed the first informant that the said room is of SRA project, and that they would get the name of the first informant recorded in Annexure II and transfer the room in his name for Rs.35,00,000/-. The Applicant also told the first informant that he and Sanjay Kamble, would personally obtain and prepare the relevant documents required for transfer of the room. The Applicant and the co-accused Sanjay Kamble, who is an employee of Municipal Corporation, Mumbai, would prepare all the documents required for transfer of the room. The First Informant has stated that the Applicant and the co-accused induced him to pay a total sum of Rs.35 lakhs from time to time on a false assurance that the room would be transferred in his name. The Applicant also assured him that all the relevant documents are being prepared. The Applicant refused to give copies of the said documents on the pretext that the BMC documents are confidential and cannot be shown. He has further stated that the Applicant and the co-accused had told him that about six months time will be required to get his name included in Annexure II, and induced

him to make payment of Rs.5 Lakhs to one Chandrakant Chavan.

4. The first informant has stated that he had sold his room situated at Gokul Dham and paid the said money to the Applicant and the co-accused in view of the assurances given by them that they would transfer the room in his name. The grievance of the first informant is that the Applicant and the co-accused have neither transferred the room in their name, nor returned the money despite assurances. The first informant has stated that the Applicant and the co-accused have also taken an amount of Rs.23 lakhs from his relative Indrajeet Dhondurao Raul under the pretext of transferring a room in his name. It is stated that upon persistent demand, the Applicant has returned an amount of Rs.95,000/- to the first informant and Rs.1,00,000/- to Indrajeet Dhondurao Raul, and that they have not paid the balance amount, nor transferred the rooms in their names.

5. The First Information Report prima facie reveals that the first informant had sold his room with a hope that he would get a better residential premises. The records prima facie reveal that the Applicant had induced him in paying an amount of Rs.35 lakhs on a false assurance that he would get his name recorded in Annexure II and that he would get the room transferred in his name. The records reveal that the rooms which was proposed to be sold to the first informant as well

as to his relative were non existing. This fact also prima facie proves that the intention of the Applicant was to deceive the first informant since inception.

6. Considering the nature of the accusation levelled against the Applicant, in my considered view, this is not a case for grant of pre-arrest bail. Hence the application is dismissed.

(ANUJA PRABHUDESSAI, J.)