

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1079 OF 2023

Naeem Noor Mohd Ansari

...Applicant

vs.

The State of Maharashtra

...Respondent

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Ms. Misbaah Solkar, a/w. Mr. Gaurav Shenoy, i/b. Aamin Solkar, for the Applicant.

Mr. R.M. Pethe, APP, for the Respondent State.

Mr. Somnath Kale, PSI, Nagpada Police Station, Mumbai.

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CORAM : ANUJA PRABHUDESSAI, J.

DATE : 19 APRIL 2023

P.C. :

This is an application under Section 438 of Cr.P.C. for pre-arrest bail in Crime No.728 of 2023 registered with Nagpada Police Station, Mumbai for offence under Section 420 r/w 34 of IPC.

2. Heard Ms. Misbaah Solkar, learned Counsel for the Applicant, Mr. R.M. Pethe, learned APP for the 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 Zain Yashe Dorjee. The facts narrated in the FIR prima facie reveal that the Applicant was in need of money. He requested the First Informant to arrange for loan. The First Informant had stated that he arranged loan of Rs. 10,00,000/- from Rekharam Prajapati, which was to be repaid within one year with interest. It is stated that the Applicant paid Rs.40,000/- towards interest of two months and, thereafter, he failed to pay the balance amount. The First Informant had claimed that he sold his land and paid an amount of Rs.12,60,000/- to Rekharam Prajapati. The First Informant has stated that the Applicant refused to pay the balance amount of Rs. 3,50,000/- and that he assaulted him when he asked him to return the money.

4. The FIR does not prima facie indicate that the First Informant was only a middle man in securing rent or arranging the loan for the Applicant. It is clear that there was some transaction between the Applicant and the First Informant and the FIR is lodged primarily to recover the amount. Be that as it may, the Applicant has already deposited an amount of Rs.3,50,000/- before the trial court.

5. Considering the above facts and the nature of the accusation, in my considered view, it is not a fit case, which would justify custodial interrogation. The application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in C.R. No.728 of 2023 registered with Nagpada Police Station, Mumbai, 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 is directed to report to the Investigating Officer for two days on 24 and 25 April 2023 between 11.00 a.m. to 2.00 p.m. and further as and when called by the Investigating Officer and shall co-operate with the 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.
6. The application stands disposed of.

(ANUJA PRABHUDESSAI, J.)