

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

ANTICIPATORY BAIL APPLICATION NO. 1185 OF 2023

Vishal Dipak Bhansali
v/s.

... Applicant

The State of Maharashtra

.... Respondent

Mr. Satyavrat Joshi a/w. Mr. D.K. Jain i/b. Kiran Jain and Co.
for the Applicant.

Mrs. A.A. Takalkar, APP for the State.

Mr. Ishan Srivastava for the Intervenor.

Mr. Dipak Bhansali and Mr. Vishal Bhansali, present.

Mr. V.R. Ambarge, API, Dr. D.B. Marg Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 02nd MAY, 2023.

P. C. :-

. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R.No.137/2022 registered with D.B. Marg Police Station, Mumbai for offences punishable under sections 406, 420 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. 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. Shubhangi Dilip Purohit. The facts narrated in the FIR prima facie reveal that the husband of the first informant had to undergo dialysis and was taking treatment at Saifee Hospital hence, she was looking for residential premises within the vicinity of the said hospital. She has stated that the Applicant and his father had agreed to sell their Room No.3, 15/B, Aruna Niwas, 4th Floor, Slater Road, Grant Road, Mumbai for sale consideration of Rs.3,50,00,000/-. It is stated that the first informant had paid to the Applicant an amount of Rs.50,00,000/-. It is alleged that the Applicant neither entered into an agreement for sale nor refunded the money. Hence, the FIR for cheating and misappropriation.

4. In the course of the hearing, Mr. Satyavrat Joshi, learned counsel for the Applicant made a statement that the Applicant and the co-accused are ready to settle the dispute amicably. He has stated that the Applicant shall refund an amount of Rs.50,00,000/- within a period of one year. He has placed on record affidavit of the Applicant and his father, who is the owner of the said premises wherein they have solemnly affirmed that they will refund an amount of Rs.50,00,000/- to the first informant after selling the Room No.3, 15/B, Aruna Niwas, 4th Floor, Slater Road, Grant Road, Mumbai, which will be done within the period of 12 months from the date of this order. The Applicant and his father have also undertaken

to deposit Rs.5,00,000/- before this Court within 20 days from today and further undertake to deposit balance Rs.45,00,000/- within 12 months from the date of the order.

5. Mr. Dipak Bhansali, who is the owner of the said flat is present before the Court. Said Dipak Bhansali has also made a statement that he is ready to settle the dispute amicably as per the statement made in the affidavit. Mr. Joshi, learned counsel for the Applicant, on instructions, states that the Applicant and his father have no objection if the amount of Rs.5,00,000/- which will be deposited before this Court within 20 days and the balance amount of Rs.45,00,000/- which will be paid within 12 months, is paid to the first informant. Learned counsel for the first informant also makes a statement, on instructions, that on receipt of the entire amount, the first informant will give her no objection for quashing of the FIR and will co-operate with the Applicant in getting the said proceedings quashed. Statements made by the learned counsel for the respective parties are accepted as an undertaking to the Court.

6. Since the parties have agreed to settle the dispute amicably, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.137/2022 registered with D.B. Marg Police Station,

Mumbai, he shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(b) The Applicant shall deposit an amount of Rs.5,00,000/- before this Court within 20 days from the date of this order and balance Rs.45,00,000/- within a period of 12 months as per the statement made before this Court ;

(c) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer ;

(d) The Applicant shall not interfere with the Complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(e) 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.

7. The Application stands disposed of. Since the Application is disposed of only in view of the settlement and not on merits, the

Applicant is put to notice that failure to comply with the undertaking shall result in recall of bail order and restoration of the Application.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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PREETI H JAYANI
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