

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

ANTICIPATORY BAIL APPLICATION NO. 1460 OF 2023

Mohd. Akhtar Rafiq Malik	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Chaitanya A.M. i/b. Mr. Kishore Boyewar for the Applicant.
Mr. S.H. Yadav, APP for the State.
Mr. Mohite, PSI, Samtanagar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 05th JUNE, 2023.

P. C. :-

1. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicant apprehending his arrest in C.R.No.215/2023 registered with Samta Nagar Police Station, Mumbai for offences punishable under sections 406, 420, 464, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by Gulabchand Shriram Singh. A perusal of the FIR reveals that the Applicant herein had represented to the Complainant that he is the owner of the land under Old Survey No.346 (New Survey No.387) admeasuring 20 hectare and 85 gunthas at village Juchandra, Taluka

Vasai, Naigaon, Dist. Palghar. The Applicant herein had entered into an agreement with the Complainant for sale of the said property for Rs.2 crores. The material on record reveals that the Complainant had paid to the Applicant an amount of Rs.30,00,000/- towards earnest money.

3. The records prima facie indicate that the Applicant was not the owner of the property. He did not have any right, title or interests in respect of the suit property. He has induced the Complainant in entering into an agreement and paying the earnest money by misrepresenting to him that he is the owner of the property. The material on record shows the complicity of the Applicant in commission of the crime. The records reveal that apart from the Applicant, some other people are also involved in commission of the crime. The case is under investigation. Hence, this is not a case to exercise discretionary powers under section 438 of Cr.P.C. Hence, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)

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