IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1610 OF 2023

Shiva Nandan Nadar … Applicant
v/s.
The State of Maharashtra …. Respondent

Mr. Omprakash Parihar for the Applicant.
Mr. S.V. Gavand, APP for the State.
Mr. Pradip Ahire, PSI, MIDC Police Station, Mumbai, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 08th JUNE, 2023.

P. C. :-

. This is an Application under section 438 of Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.263/2023 registered with M.I.D.C. Police Station, Mumbai for offences punishable under sections 406, 420 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 Lalji Shivpujan Kumbhar. A perusal of the FIR prima facie reveals that

the first informant's cousin – Rajtirath Prajapati had informed him that one Baban Suryavanshi was desirous of purchasing one room. The first informant introduced him to the Applicant herein who was a property dealer. He has stated that he agreed to sell the room no.14 for Rs.13,00,000/-. He has further stated that the Applicant demanded token amount of Rs.15,000/- which the first informant paid by Google Pay. On the next date, the Applicant demanded additional amount. Accordingly, the first informant transferred an amount of Rs.50,000/- from his bank account. The first informant has stated that the Applicant forwarded to him copies of Aadhar Card, Pan Card, Light Bill, Voter ID Card and the license pertaining to the shop on his mobile phone and told him to prepare the necessary documents. The first informant has stated that he has paid to the Applicant an amount of Rs.7,00,000/- from the bank account no.05431050303581 which is in the name of his father and transferred Rs.3,95,000/- from his own account. The first informant thus paid to the Applicant the total amount of Rs.12,00,000/-. The Applicant, thereafter, failed to transfer the said room in their favour and issued one cheque for Rs.12,00,000/- which was dishonoured.

4. The FIR prima facie reveals that the first informant was induced

in paying the money on pretext of sale of a room, which the Applicant never intended to sell. Hence, prima faice, deception was from the very inception.

5. Learned counsel for the Applicant states that the Applicant is trader of eggs and that an amount of Rs.12,00,000/- was received from the first informant towards sale of eggs. Prima facie, there is nothing on record to substantiate the said claim. Moreover, the material on record indicate that the Applicant herein had forwarded all the requisite documents i.e., Aadhar Card, Pan Card, Light Bill, Voter ID Card and the license pertaining to the shop to the first informant. This fact prima facie negates the contention of the Applicant that the money was received towards sale of eggs.

6. The investigation is in progress. Considering the nature of accusations against the Applicant, I am not inclined to exercise discretion under section 438 of Cr.P.C. Hence, the Application is dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)