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

ANTICIPATORY BAIL APPLICATION NO. 1669 OF 2023

Deepak Vijay Pawar ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Jaydeep Mande for the Applicant.
Mr. S.V.Gavand, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 26th JUNE, 2023.**

P.C.

1. The Applicant apprehends his arrest in C.R.No.277 of 2023 registered with City Police Station, Pandharpur for offences under Section 420, 465, 467, 468, 471, 472, 473 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant, 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 Anil Sudhakar Chate, the Assistant Sub Registrar, Class – II, Pandharpur. The facts narrated in the FIR prima facie reveal that first informant had received queries from several persons relating to

the sale deed bearing serial No.52 of 1997. Upon verification of the original document it was revealed that the said sale deed was between Bhiku Vithoba Ausekar as a purchaser and Shashikant Patvardhan, the seller. The records also revealed that the co-accused Audumbar Raste had made an application on 11.07.2022 for certified copy of the said sale deed and that the same was furnished to him on 14.07.2022. The first informant claims that the certified copy of the sale deed under registration No.52 of 1977, which was given to him for verification showed the name of the co-accused Audumbar Raste as a purchaser. The said sale deed did not bear his signature and that the seals were fake. It was revealed that the co-accused- Audumbar Raste had forged and fabricated the said document and on the basis of the said forged document, he got his name entered in the City Survey Records of property under survey no. 4075/1/A/1/1. Said Audumbar Raste agreed to sell portion of land admeasuring 418.21 sq. mts. of the said property to the Applicant herein for sale consideration of Rs.23,90,000/-.

4. The Applicant claims that he is a bonafide purchaser and is a victim of the crime. Whereas learned APP submits that the Applicant, who is the beneficiary of the said fraud had joined hands

with the co-accused in forging and fabricating the said documents.

5. It is not in dispute that the Applicant and the co-accused Audumbar Raste had entered into an agreement for sale dated 24.02.2023. The said agreement records that the co-accused Audumbar Raste, who was in need of money, had agreed to sell the property to the applicant herein for sale consideration of Rs.23,90,000/-. The agreement further states that the Applicant herein had paid to the co-accused an amount of Rs.23,00,000/- towards earnest money and the balance amount of Rs.90,000/- was to be paid within a period of two months from the date of receipt of no objection certificate from Pandharpur Municipal Corporation. One of the clauses of the agreement stipulates that failure to pay the balance amount of Rs.90,000/- within the stipulated time would lead to forfeiture of the earnest moneyo Rs.23,00,000/-

6. The agreement for sale states that the Applicant herein had paid an amount of Rs.23,00,000/- in cash. Learned Counsel for the Applicant admits that the Applicant herein had not verified the title before paying an amount of Rs.23,00,000/- in cash. Furthermore, the said amount is not reflected in the income tax returns. There is

no material on record to indicate that the Applicant had financial capacity to pay Rs.23,00,000/- in cash. Hence the payment of the earnest money in cash prima facie appears to be doubtful.

7. The above facts, as well as the terms and conditions of the agreement prima facie indicate that the agreement for sale is fraudulent. Hence, prima facie the Applicant cannot be considered to be a bonafide purchaser or a victim of the crime, and on the contrary, he is one of the beneficiaries of the crime and prima facie he had allied with the co-accused in fabricating and forging the documents.

8. The investigation is at preliminary stage. Considering this aspect, as well as the nature of the accusation, in my considered view, this is not a fit case to exercise discretion under Section 438 of Cr.P.C. Under the circumstances, the application stands dismissed.

(ANUJA PRABHUDESSAI, J.)