

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1728 OF 2023**

1. Sanjay Krishna Chindarkar	
2. Bhagyashree Sanjay Chindarkar	 Applicants
v/s.	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 2329 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 1728 OF 2023**

Mr. Vijay Nareshchandra Agrawal	 Intervenor
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In the matter between :-

1. Sanjay Krishna Chindarkar	
2. Bhagyashree Sanjay Chindarkar	 Applicants
v/s.	
The State of Maharashtra	 Respondent

Mr. Onkar Gawade a/w. Mr. Shivram Gawade for the Applicants.
Mr. S.V. Gavand, APP for the State.
Mr. A.M. Saraogi for the Intervenor.
Mr. Satish Wayar, API, Kurar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 17th JULY, 2023.

P. C. :-

. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicants apprehending their arrest in C.R.No.358/2023 registered with Kurar Village Police Station, Mumbai for offences punishable under sections 406, 420, 467 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants, 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 Vijay Nareshchandra Agarwal. The facts narrated in the FIR prima facie reveal that the Applicant and his wife are the owners of flat nos. 3902 and 3903 situated at Filmcity Road. It is alleged that the Applicants herein had agreed to sell the said flats to the first informant for sale consideration of Rs.4,25,00,000/-. The Applicants received from the first informant a total sum of Rs.1,37,71,402/-. It is further stated that the said flats were mortgaged with PNB bank towards security of the loan availed and this fact was informed to the first informant/purchaser. Both the parties executed sale deed which has been duly registered. As per the said sale deed, the amount specified in clause (2) of the 2nd schedule was to be paid to PNB Bank. It is stated that possession of the flats was to be given to the purchaser on payment of the balance amount and on clearing the loan amount taken from PNB Bank. The first informant claims that he was ready to pay

the said amount, however, the Applicants failed to give foreclosure letter and further issued letter dated 25/11/2022 to the Bank not to accept the money from the third party. It is on these basis that the first informant has lodged the FIR alleging that the Applicants have committed offence of cheating and misappropriation.

4. The records prima facie indicate that the Applicants are the owners of the two flats which were agreed to be sold to the first informant. They had also informed the first informant about the loan taken by them from PNB Bank by mortgaging the said flats. It is also not in dispute that the Applicants had executed sale deed in favour of the first informant. As per the said sale deed, the first informant was to clear the loan amount within two days from the date of execution of the sale deed. It appears that subsequent to execution of sale deed, there was dispute between the parties over payment of tax. It is for this reason that the Applicants had issued notice to the Bank not to accept the money from the first informant.

5. The material on record, in my considered view, does not prima facie indicate that the Applicants had intention to cheat the first informant right from the inception. Moreover, it is stated that the

Applicants had filed a suit for cancellation of sale deed and have made a statement that they are ready to refund the money taken from the Complainant along with interest.

6. Under the circumstances, in my considered view, this is not a case which would justify custodial interrogation. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicants in C.R.No.358/2023 registered with Kurar Village Police Station, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.30,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall report to the Investigating Officer for two days i.e., on 21/07/2023 and 22/07/2023 between 11:00 a.m. to 02:00 p.m. ;

(c) The Applicants 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 ;

(d) The Applicant shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

7. The Application for Anticipatory Bail and Interim Application stands disposed of in above terms.

(SMT. ANUJA PRABHUDESSAI, J.)

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2023.08.11
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