

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

ANTICIPATORY BAIL APPLICATION NO. 1757 OF 2023

Malcolm Jerome Kinny

... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Snehal Kolamkar a/w. Abhilash Kutey,
Mr. Vishal Padvi and Ms. Tejashree Kolamkar
for the Applicant.

Mr. S.V. Gavand, APP for the State.

Mr. Parkale, PSI, N.M. Joshi Marg Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th JULY, 2023.

P.C. :-

. The Applicant apprehends his arrest in C.R.No.184/2023 registered with N.M. Joshi 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 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 Dattatraya Toraskar. The facts narrated in the FIR prima facie reveal

that the first informant had booked one BHK flat with terrace on the 22nd floor of the building and a parking area in Florenca Tower. It is not in dispute that the first informant has been put in possession of the flat. The grievance of the first informant is that she has paid to the Applicant herein an amount of Rs.25,00,000/- towards price of terrace and parking area. It is alleged that the Applicant misappropriated the said amount and hence, the said parking area and the terrace has not been allotted to her.

4. Learned counsel for the Applicant has placed on record statement of bank account which prima facie indicate that an amount of Rs.23,33,595/- has been transferred in the account of the developer and further an amount of Rs.1,10,000/- in the account of the driver of the developer. Learned counsel for the Applicant states that the Applicant is ready to pay balance amount of Rs.2,00,000/-. In such circumstances, no case is made out for custodial interrogation.

5. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicant in C.R.No.184/2023 registered with N.M. Joshi 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 report to the Investigating Officer as and when required ;

(c) 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 ;

(d) 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.

6. The Application stands disposed of.

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(SMT. ANUJA PRABHUDESSAI, J.)