

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1795 OF 2023

Chhaya Dattatraya Botre	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Vikas Shivarkar for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

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CORAM : AMIT BORKAR, J.

DATED : JULY 13, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.49 of 2023 registered with Kamshet Police Station for offences punishable under sections 406, 420, 34 of the Indian Penal Code, 1860, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. According to the prosecution, informant Rekha Vishnu Sawant on 16th February 2023 lodged a report alleging that on the instructions of her Chartered Accountant, she purchased Gat No.157 admeasuring 76.3 R. situated at Karunj, Taluka Maval, District Pune. The allegations against the applicant is that the applicant along with other co-accused convinced the informant that the vendor was in need of amount and, therefore, maximum amount of consideration needs to be paid by cash. The applicant

along with other co-accused told the informant to issue cheque in the name of Vishal Trivedi who in turn shall pay cash amount to the vendor. Accordingly, the informant issued cheque of Rs.5,00,000/- and cheque of Rs.15,00,000/- in the name of Vishal Trivedi's brother Mitul Trivedi. At the time of execution of sale deed the applicant along with another co-accused were present and they had arranged for witnesses. When it was realized that vendor had no title, the applicant promised to transfer 2 acres of land at different place and as of security issued cheque of Rs.35,00,000/-. The applicant's cheque of Rs.35,00,000/- issued as a security for fulfillment of promise was dishonoured. The applicant along with another sought three months time for transfer of 2 acres land. However, the said cheque was dishonoured. She, therefore, lodged a report.

3. Prima facie there is sufficient material to indicate that informant's vendor had no title on the date of sale deed. The statements of the witnesses indicate that the applicant played active role in the execution of sale deed. The material on record indicates that the applicant has three antecedents of similar nature to her discredit. The issuance of cheque of consideration amount by the applicant indicates that report against the applicant is not frivolous.

4. Considering nature of offences alleged against the applicant, custodial interrogation of the applicant is necessary to unearth transfer of crime money paid by the informant. Considering the nature of allegations and the antecedents, elicitation oriented investigation is necessary.

5. The Apex Court in paragraph 6 in the case of **State represented by CBI v. Anil Sharma** reported in (1997) 7 SCC 187 has emphasized the necessity of custodial interrogation as under:

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

6. Therefore, the applicant has failed to make out a prima facie case. The anticipatory bail application is, therefore, rejected.

(AMIT BORKAR, J.)