

VRJ

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

BAIL APPLICATION NO.2061 OF 2023

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Kapil Narendra Makhwana

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. G. N. Salunke with Mr. Dharmanath N. Gandhali
for the applicant.

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

Mr. S. B. Patil, PSI, Kamothe Police Station, Navi
Mumbai is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2023

P.C.:

1. This is an application under section 439 of the Criminal Procedure Code, 1973 seeking bail in connection with C.R. No. 276 of 2022 registered with Kamothe Police Station, New Mumbai for offences punishable under sections 420, 406, 465, 467, 468, 471, 406 of the Indian Penal Code, 1860.

2. According to the prosecution, the present accused assured the informant that he will hand over a plot of 210 square meters situated at Sector No.17, Kamothe, Taluka Panvel, District Raigad for development. For this purpose, the present accused prepared forged documents of CIDCO office. The present accused took an

amount of Rs.15,30,000/- from the informant. According to the informant, he had paid subsequently amounts to the accused and he is cheated for an amount of Rs.20,30,000/-. Out of this, amount of Rs.5,00,000/- is repaid. Till date the applicant neither refunded amount of Rs.15,30,000/- nor the plot is given.

3. Based on the said report, the applicant was arrested on 10th March 2023.

4. The investigation is complete. Charge-sheet is filed. On perusal of the MoU on record dated 12th January 2018, it prima facie appears that the applicant no were stated that he has right, title and interest in plot No.3(C) admeasuring 210 square meters. Prima facie, it appears that there is allegation of failure to fulfill promise of execution of joint venture agreement for development of property. As regards Tri-party Agreement which is alleged to be forged by the applicant, prima facie it appears that no one has signed on behalf of CIDCO. According to the prosecution, the applicant has forged signatures of relatives of the owner.

5. Considering the nature of transaction between the applicant and the informant and prima facie absence of dishonest inducement, the applicant has made out a prima facie case for his release under section 439 of the Criminal Procedure Code, 1973. Moreover, the informant has filed civil suit for recovery of amount before lodging the report. Hence, following order:

a) The applicant Kapil Narendra Makhwana be released on bail in connection with C.R. No. 276 of 2022 registered with Kamothe Police Station, New Mumbai for offences

punishable under sections 420, 406, 465, 467, 468, 471, 406 of the Indian Penal Code, 1860, on furnishing PR. Bond in the sum of Rs.25,000/- along with one or two sureties in the like amount;

b) The applicant shall attend each and every date before the Trial Court unless specifically exempted by the Court;

c) The applicant shall mark his presence before the investigating officer on first Saturday of each month between 11.00 a.m. to 02.00 p.m. till the completion of the trial;

d) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court;

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case.

6. The bail application is disposed of in above terms.

(AMIT BORKAR, J.)