IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1859 OF 2023

Dharmistha Narendra Tailor ..Applicant

v/s.

The State of Maharashtra . ..Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO. 1860 OF 2023

Narendra Uttambhai Tailor ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Krishna Pandey for the Applicant.
Ms. Ashwini Sawant for the Intervenor.
Mr. S.V.Gavand, APP for the State.

CORAM : ANUJA PRABHUDESSAI , J.
DATED : 18th AUGUST, 2023.

P.C.

1. The applicants apprehend arrest in C.R.No.272 of 2023 registered with Vile Parle Police Station for offences under Section 406, 420, 506(2), 120B 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

Anjali Ramesh Dhiwari . The facts narrated in the FIR, and the other material on record prima facie reveal that then first informant was in need of a residential premises. She came across a website by name Housing.Com, and learnt that a flat at Kherwadi was for sale. She contacted the broker Rakesh Yadav. He informed her that the said flat was already sold, and that another premises being flat No.203, 2nd floor, Near Jeevan Vikas Kendra Hospital, Vile Parle, owned by the applicant herein was for sale. The first informant contacted the applicants through the agents Rakesh Yadav and Anthony, and upon negotiations, agreed to purchase the flat for sale consideration of Rs.1,50,00,000/-. The first informant transferred an amount of Rs.1 lakh into the account of applicant Narendra Tailor, and subsequently entered into an agreement (MOU) dated 9.12.2022. The first informant pledged her mother's gold and obtained gold loan of Rs.6,00,000/- and transferred the said amount and additional Rs.8,00,000/- to the account of the applicants.

4. The first informant claims that though the agreed sale consideration was Rs.1,50,00,000/-, the applicant subsequently demanded additional amount of Rs.70,00,000/- in cash. The first informant was unable to pay the additional amount of Rs.70,00,000/- in cash, and hence requested the applicants to return the money which was transferred by her in their account. The applicant refused to repay the money. The first informant also learnt that the applicants herein had

already availed loan by offering the said flat as collateral security. Hence the FIR.

5. By order dated 27.07.2023, this Court had granted interim protection mainly in view of the statement of the applicant that they had not received the money which was transferred by the first informant in their account. It was alleged that the said account in which money was transferred was a fake account opened by Rahul Yadav and that they are not the beneficiaries of the said money. It was also alleged that the said money was misappropriated by Rahul Yadav.

6. Learned APP states that pursuant to the said order, the Investigating Officer has verified the account of the applicant, in which the money was transferred. The material collected by the Investigating Officer in the course of investigation reveals that the account was opened by the applicant Narendra Tailor. He had submitted his Aadhar Card, as well as pan card. The photograph of the applicant was also taken in the bank at the time of opening the said account. The applicant had given the mobile number of his son to the bank and the messages in respect of the said account and transactions thereto were sent on the said mobile phone, which was in the name of the son of the applicant. The records also reveal that the applicant had transferred the money from the said account in favour of several persons by cheques, which fact prima

facie negates the contention of the applicant that the account is fake.

7. The records prima facie indicate that the applicants herein had induced the first informant to pay the amount of Rs.15,00,000/- under the pretext of sale of residential premises which was already offered as collateral security. The investigation is at initial stage. Considering the allegations leveled against the applicant and the material in support thereof, I am not inclined to exercise discretion under Section 438 of Cr.P.C. Hence application is dismissed.

(ANUJA PRABHUDESSAI, J.)