

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

ANTICIPATORY BAIL APPLICATION NO. 1914 OF 2023

Mr. Ilyas Sajim Ahmad

..Applicant

v/s.

The State of Maharashtra .

..Respondents

MS. Shabnam Shaikh a/w. Mushahid Kher, Mr. Vinod Gupta for the Applicant.

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

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 13th JULY, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No. 306 of 2023 registered with R.C.F. Police Station for offences under Section 420,465, 468, 471 r/w. 34 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 Farzana Aslam Shaikh. The facts narrated in the FIR prima facie reveal that the first informant was in search of premises at Vashi Naka. The

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Applicant, who was her acquaintance, informed her that he knows several officers of BMC and that he could arrange a room for Rs. 8 Lakhs. Initially she paid an amount of Rs.1,00,000/- to the Applicant. In the month of December 2020, the Applicant handed over to her an allotment letter of BMC allotting to her room No. 25A at RNA Park, Rockline, MHADA, Vashi Naka, Chembur. The Applicant called her to BMC Office within about five to six days. The first informant claimed that her son paid Rs.2,00,000/- to the Applicant, who in turn gave it to the co-accused Abdul Latif. The Applicant told the first informant to take possession of the room in the month of January 2021. She took the possession of the room and the Applicant told her that she has to pay an additional amount of Rs.2 Lakhs to complete the documentation. The first informant paid the said amount to the Applicant in February, 2021. Subsequently, the housing society informed the first informant that they had not received any documentation in her name and in respect of the said room, and until such documents were received, they would not hand over possession to her, and hence they locked the room.

4. She informed this to the Applicant and the Applicant told her that the documents would be handed over after payment of the entire amount. The first informant thereafter paid the additional amount of Rs.1,00,000/- to the Applicant. Again in the month of May, the Applicant demanded Rs.1,00,000/-. Since the first informant did not

have money, she paid to him Rs.60,000/- . In the month of June 2021 she learnt that the said room was allotted to some other person. When the first informant informed this to the Applicant, the Applicant told her that she will have to obtain stay from the Court and will have to incur expenditure of Rs.20,000/-. He gave her a mobile number to make payment. Accordingly, the son of the Applicant transferred an amount of Rs.15,000/- by google pay on the said number and gave Rs.5000/- in cash. She has stated that since the Applicant was not able to give possession of the said room she told him to return the money, which was received from her. In July 2022, the Applicant handed over to her one cheque for Rs.3,00,000/- from the account of the co-accused Sayed Latif. The said cheque was dishonoured. In September, 2022, the Applicant handed over to her cheque of Rs.95,000/-. The said cheque was also dishonoured. On 21.3.2023 the Applicant issued cheque of Rs.8,83,000/-. The said cheque also bounced. It was only thereafter that the Applicant learnt that she has been cheated and hence she lodged the FIR against the Applicant.

5. A perusal of the FIR reveals that the Applicant is not only involved in cheating the first informant, but he is also involved in preparing forged and fabricated documents.

6. Considering the nature of the allegations and the accusation

against the Applicant, in my considered view, this is not a fit case for exercising discretion under Section 438 of Cr.P.C. Hence the Application is dismissed.

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)