

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

**ANTICIPATORY BAIL APPLICATION NO.1971 OF 2023**

Ashwin Rameshwar Karwa

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Sanjeev P. Kadam, senior Advocate with Mr. Mayur G. Sanap i/b. Mr. Raju Yamgar, Bharti Lokhande and Maruti Burungale for the Applicant.

Mr. R.M. Pethe, APP for the Respondent-State.

Mr. Tanaji Patil, PSI, Vanrai Police Station, present.

MEGHA  
SHREEDHAR  
PARAB  
Digitally signed  
by MEGHA  
SHREEDHAR  
PARAB  
Date:  
2023.07.14  
18:21:39  
+0530

**CORAM: SMT. ANUJA PRABHUDESSAI, J.**

**DATED: 14<sup>th</sup> JULY, 2023.**

**P. C. :-**

1. Mr. Sanjeev Kadam, learned senior counsel seeks leave to place on record copy of the order dated 11/07/2023 passed by the learned Additional Sessions Judge, Sessions Court, Dindoshi, Mumbai. Leave granted.

2. This is application under Section 438 of the Cr.PC. filed by the aforesaid Applicant, who apprehends his arrest in Crime No.574 of 2022 registered with Vanrai Police Station, Mumbai, for the offences punishable under Sections 406, 420, 465, 468 and 471 of the IPC.

3. Heard Mr. Sanjeev P. Kadam, learned senior counsel for the Applicant and Mr. R.M. Pethe, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The facts narrated in the FIR reveal that the First Informant is in the business of Airport services ground handling in the name and style of Vayudut Multiservices Pvt. Ltd. Sometime in the month of June-2018 he got acquainted with the co-accused Kedar, brother-in-law of the Applicant herein. The co-accused represented to the First Informant that he could provide a flat in MHADA project at Mumbai at half price. He has stated that the co-accused further assured that in the event the First Informant does not want to retain the flat, he could return the same and get the refund within a period of sixty days. In the month of August-2021 the co-accused once again approached the First Informant and apprised him about various schemes run by MHADA. The First Informant saw several flats and shortlisted one 4 BHK flat at Oshiwara, the market rate of which was Rs.12 crores. The co-accused assured to get the said flat at Rs.6 crores and asked him to forward details such as PAN Card, Aadhar Card, etc. On 03/09/2021 the First Informant at the instance of the co-accused handed over a

Demand Draft for Rs.5,00,000/-to the co-accused Kedar. On 08/09/2021 Kedar gave him an allotment letter in respect of MHADA Flat and assured that the flat would be allotted by December-2021.

5. The co-accused showed another flat to the First Informant at Kanakia Level, Malad (East). The co-accused told him the price of the said flat at Rs.5 crores and assured him that he will arrange it for Rs. 2.5 crores within a period of 30 days. The First Informant paid to the co-accused Rs.60,00,000/- towards part payment of the said flat. The co-accused gave him another allotment letter in respect of the said flat. When the First Informant approached ICICI Bank he learnt that all the allotment letters in the name of MHADA were forged and fabricated and that there was no such MHADA flat available for sale. The First Informant has stated that he has been cheated to the tune of Rs.4.74 lakhs and said Kedar has refunded an amount of Rs.20,00,000/-.

6. The allegations in the FIR are essentially against the co-accused-Kedar, who was arrested in the crime and granted regular bail. The only allegation against the Applicant is that he is the brother-in-law of the co-accused and that he told the First Informant that his

money would be safe and that he could purchase the flat from Kedar. The Applicant is not the beneficiary of the said fraud committed by the co-accused.

7. In such circumstances, particularly considering the fact that this Applicant is not involved in making any false assurance or in inducing the Complainant in parting with the money, in my considered view this would be a fit case to exercise discretion under Section 438 of the Cr.P.C. in favour of the Applicant. Hence, the application is allowed on the following terms and conditions:-

- (i) In the event of arrest of the Applicant in Crime No.574 of 2022 registered with Vanrai Police Station, Mumbai, the Applicant shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- with one or two sureties each to the like amount;
- (ii) The Applicant shall report to the concerned Investigating Officer as and when required by the Investigating Officer;
- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the

witnesses in any manner.

- (iv) 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.

8. The application stands disposed of.

**(SMT. ANUJA PRABHUDESSAI, J.)**