

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

ANTICIPATORY BAIL APPLICATION NO. 1977 OF 2023

Aslam Yasin Khan

..Applicant

v/s.

The State of Maharashtra & Anr.

..Respondents

Ms. Kirti Purohit i/b. Rakesh karkera for the Applicant.

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

Mr. Ganesh Sovani for the Respondent No.2 Intervenor.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 18th 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.94 of 2023 registered with Ghatkoper Police Station for offences punishable under Section 406, 420, 465, 467, 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 Amita Dabke. The complainant had alleged that the Applicant and

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others had assured to transfer a room in her favour. The Applicant and the co-accused received total amount of Rs.35,00,000/- from the first informant. It is stated that despite receipt of money, the Applicant did not hand over possession of the room, nor they returned the money. Hence, the FIR. Learned Counsel for the Applicant and the Intervenor state that the parties have settled the dispute amicably. They have placed on record consent terms, which read thus:

- 1. Respondent No. 2 i.e. the Original Complainant has on 20th February 2023 registered a on 20/02/2023 an FIR bearing C.R. No. 94 /2023 came to be registered at the Ghatkopar Police Station, Mumbai for offenses alleged under sections 406,420,465,467,468,471 r/w 34 of the Indian Penal Code, 1860 against the present applicant and 3 others.*
- 2. That Original Complainant i.e. Respondent No. 2 shall withdraw all the allegations against the Accused and his Wife who is arrayed as accused no.4 herein. The applicant has agreed and decided to pay Rs.35.00,000/- (Rupees Thirty Five Lakhs) as full and final settlement between the parties.*
- 3. The Schedule of Payment is as follows :*

Sr No	Date	Amount	Details of DD/ Cheque
1	27 th June 2023	Rs.10,00,000/-	DD No. 013247 ICICI BANK
2	24 th August 2023	Rs.15,00,000/-	Cheque No. 100083 APNA SAHAKARI BANK LTD
3	24 th October 2023	Rs.10,00,000/-	Cheque No. 100082 APNA SAHAKARI BANK LTD

4.

The Respondent No. 2 executed an Affidavit on this 9th July , 2023 recording that she has No Objection to grant Anticipatory Bail to the Petitioner and the Respondent No.2 shall further assist the Petitioner and His Wife in quashing the said FIR C.R. NO. 94 of 2023 lodged with Ghatkopar Police Station. However, this quashing only to the extent of the Applicant and his wife and not to any of the other accused.

5. *However, the Applicant is put to the notice of the fact that in the event of any of the cheque getting dishonored the protection granted by the Hon'ble Court will be canceled automatically.*

6. *That the Intervener undertakes to withdraw a criminal case filed by her against the Accused No. 1 from the concerned Metropolitan Magistrates Courts at Kurla bearing Criminal Case No. Summary Case No. 261/2023 once the cheque given by the Accused No. 1 to her are honored.*
 7. *These consent terms are made and entered into between the parties above named, today on this 9th July , 2023 at Mumbai, out of their own free will, voluntarily and without any fear, force, compulsion or coercion. That the parties to the present Consent Terms have in good faith and in the interests of the parties at loggerheads, amicably and peacefully resolved all the issues, claims and counterclaims through this consent deed as and by way mentioned in the table as full and final settlement.*
 8. *Both the parties record their satisfaction to this full and final settlement and no claim or counterclaim shall be raised against each other hereinafter. All complaints and allegations against each other stand withdrawn unconditionally by both the parties and henceforth there shall be no allegations or counter allegations with regard to this case.”*
4. The first informant has also filed her affidavit, wherein she has accepted that the matter has been amicably settled as per the consent terms.

5. Learned Counsel for the Applicant has handed over to the Counsel for the Respondent Demand Draft dated 27.06.2023 for an amount of Rs.10 lakhs and two post dated cheques dated 24.08.2023 for Rs.15 lakhs and 24.10.2023 for Rs.10 lakhs, towards full and final settlement.

6. Since the parties have entered into settlement, in my considered view this is a fit case to exercise discretion under Section 438 of Cr.P.C. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in Crime No.-C.R. No.94 of 2023 registered with Ghatkoper Police Station, the Applicant be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount;

(ii) The Applicant shall report to the Investigating Officer as and when required by the Investigating Officer.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) Since the Application is not decided on merits and is disposed of only in view of the consent terms filed by the parties, the Applicant is

put to notice that in the event the cheques dated 24.08.2023 and 24.10.2023 are not honoured, the bail order shall stand recalled without further reference to the Court.

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)