

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

ANTICIPATORY BAIL APPLICATION NO.2010 OF 2023

Mrs. Manali Prashant Mestry ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Arif Khan for the Applicant.
Ms A.A. Takalkar, APP for the Respondent -State.
Mr. Jadhav, API, Kalachowki Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th AUGUST, 2023.

P. C. :-

. The Applicant apprehends her arrest in C.R.No.227/2022 registered with Kala Chowki Police Station, Mumbai for offences punishable under sections 406, 420, 464, 465, 468 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and 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 Ashok Gamre. The facts narrated in the FIR prima facie reveal that

the first informant was employed with LIC. He retired in the month of June, 2018 and was in search of residential premises. He came across an advertisement regarding sale of flats. The said advertisement had mobile number of Prashant Mestry, the husband of the Applicant herein. The first informant contacted the husband of the Applicant herein and thereafter he along with his brother and friends went to the office of Prashant Mestry. The first informant has stated that the Applicant was present in the office along with her husband – Prashant Mestry and two others. She and her husband were involved in the talks regarding sale of premises and had assured to provide residential premises of MHADA at Lalbag for sale consideration between Rs.50 Lakhs to Rs.60 Lakhs. The first informant was shown a room admeasuring 350 sq. feet at Lalbag, Parel, for Rs.60 Lakhs. The first informant was asked to pay an advance of Rs.20 Lakhs and Rs.10 Lakhs on receiving the documents. He was shown some documents in respect of MHADA premises and was assured that the premises would be handed over within 03 to 04 months and was induced in paying an amount of Rs.30,00,000/-.

4. In the month of December, 2019, the Applicant and her husband allowed the first informant to reside in their premises at Chinchpokli

and the Applicant herein handed over to him the keys of the said premises. The Applicant and her husband informed the first informant that his file was submitted in MHADA office and blamed outbreak of Covid-19 pandemic for the delay.

5. In February, 2021, one person by name Jain came to the room wherein the first informant was residing and told him that the said room belongs to him. The first informant contacted Prashant Mestry and informed him about the said incident, at which time, he was informed that he would be getting MHADA premises within a couple of days. On 20/02/2021, the first informant learnt that said Jain had lodged a complaint against him for trespassing into his premises. The Applicant and her husband thereafter avoided taking his calls and their office was shut and locked. The first informant learnt that the Applicant and her husband had forged and fabricated MHADA documents in respect of the premises. They induced him to pay the money on the pretext of sale of MHADA premises, and till completion of the transaction, allowed him to temporarily reside in the premises belonging to one Mr. Jain, on a false assurance that the said premises are owned by them.

6. The FIR and the other material on record prima facie prove involvement of the Applicant in the said crime. The Applicant and her husband have duped the first informant of his life savings under the false pretext of sale of MHADA premises. The records further indicate that the Applicant and her husband have cheated several others by adopting the same modus operandi. Learned APP has placed on record bank statement, a perusal of which shows that an amount of Rs.93,00,000/- was deposited in the account of the Applicant, who is otherwise a housewife, during the period between 2019 to 2021. Moreover, another crime being C.R.No.116/2023 is registered against the Applicant at Kala Chowki Police Station for similar offence.

7. Considering the nature of the accusations against the Applicant and the material in support thereof, in my considered view, this is not a case to exercise discretion under section 438 of Cr.P.C. Hence, the Application is dismissed.

PREETI
HEERO
JAYANI

Digitally signed by
PREETI HEERO
JAYANI
Date: 2023.08.22
18:00:42 +0530

(SMT. ANUJA PRABHUDESSAI, J.)