

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2617 OF 2021

Mahadeo E. Kadam ...Applicant
V/s.

The State of Maharashtra and anr. ...Respondents.

Mr. Rajiv Patil, Sr. Advocate a/w. Mr. Vishal L. Kolekar and
Mr. Harsharaj Jagtap i/b Mr. Randir Kale for the Applicant.
Mr. Amit Palkar, APP for the Respondent/State
Mr. B.G. Tangsali for Respondent No.2.

CORAM : N.R. BORKAR, J.
DATE : 15.02.2023.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. The applicant is apprehending his arrest in Crime No.235 of 2022 registered at Chinchwad Police Station, Pimpri - Chinchwad for the offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.
3. I have heard the learned Senior Counsel appearing for the applicant, the learned APP for the respondent / State and the learned Counsel for respondent No.2.
4. According to the prosecution, the complainant and co-accused Rishikesh Pandit were partners in partnership firm M/s.M.D Developers and doing business of real estate through the said firm. It is alleged that on 24 October 2016, as partners, they

purchased land bearing Survey No.160/2 at Village Pimpri Waghere Kharalwadi and with the permission of planning authority started constructing residential and commercial building over the said plot. It is alleged that the co-accused Rishikesh Pandit, without consent of the complainant had sold the said plot of land alongwith construction over it to partnership firm viz., Nandini Developers. It is alleged that the applicant is partner of said partnership firm - Nandini Developers along with Rishikesh Pandit.

5. It appears that initially, on 7 August 2021, in relation to present crime a complaint was lodged with Chinchwad police station. However, it appears that no cognizance of the said complaint was taken. It appears that the complainant thereafter had filed a complaint case in relation to alleged offences and even sought order of investigation under Section 156(3) of Cr.P.C. The learned Magistrate by order dated 18 April 2022 rejected the prayer under Section 156(3) of Cr.P.C. and the complaint was adjourned for verification. In the facts and circumstances, the concerned police station ought not to have registered the crime.

6. Apart from the above, *prima facie*, the dispute appears to be of purely of civil nature. Considering the overall facts and circumstances, I am inclined to release the applicant on anticipatory bail. In the result the following order is passed.

ORDER

- A) The Application is allowed.
- B) In the event of arrest of the applicant in C.R. No. 235 of 2022 registered at Chinchwad Police Station for the offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code, he shall be released on bail on executing P.R Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount.

[N.R.BORKAR, J.]