



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2401 OF 2023**

Ramashankar Ramchandra Gaud	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Shambhu M. Jha with Ms. Karishma Chikhaliwala, for Applicant.
Mr. R.M.Pethe, for State.
Mr. Musale, IO and API, Mandvi Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 12 SEPTEMBER 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for pre-arrest bail in connection with C.R.No.164 of 2023 registered with Mandvi Police Station for the offences punishable under Sections 420 and 506 read with Section 34 of the Indian Penal Code, 1860.
3. The Applicant claims to be the holder of land bearing Survey No.7 Hissa No.26 at Khairpada. The co-accused Vijay allegedly sold 5R land, with a representation that he had purchased total 12R land from the applicant, to the first informant, who claimed to have paid a sum of Rs.3,55,000/- by cheque and the balance amount in cash aggregating to Rs.17,50,000/-. The first informant was allegedly put in possession of the said land. In the month of June 2022, the applicant allegedly dismantled the tin shed which the first informant had erected on the said

land. The applicant claimed that the first informant's, vendor Vijay had agreed to pay a sum of Rs.22,58,000/- towards consideration for the said land and had committed default in payment of Rs.17 Lakhs. Thus, the first informant lodged a report.

4. The learned Counsel for the Applicant submitted that the Applicant has not made any representation to the first informant, nor any amount was paid to the applicant. In fact, a settlement agreement was executed between the parties on 24 July 2022. Thus, the offence punishable under Section 420 cannot be attributed to the applicant.

5. The learned APP submitted that the applicant has not produced the original documents, though a notice under Section 91 of the Code of Criminal Procedure was given to the applicant. Therefore, custodial interrogation of the applicant is necessary for effective investigation.

6. FIR singularly lacks the allegations of false representation and inducement on the part of the applicant. Nor the first informant claims to have paid any amount to the applicant. Prima facie, the allegations of deceit coupled with injury are not attributable to the applicant.

7. The learned Counsel for the Applicant was justified in canvassing a submission that, at best, the offence punishable under Section 506 of IPC can be attributed to the applicant. To facilitate the investigation into the said offence, custodial interrogation of the applicant is not at all warranted. The applicant appears

to have roots in society. The possibility of fleeing away from justice seems to be remote.

8. I am, therefore, persuaded to exercise discretion in favour of the applicant, while directing him to co-operate with the investigation and furnish original documents, if directed by the Investigating Officer.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) In the event of the arrest of the Applicant – Ramashankar Ramchandra Gaud in connection with C.R.No.164 of 2023 registered with Mandvi Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(iii) The Applicant shall co-operate with the investigation and report to the Mandvi Police Station on every Sunday from 10.00 a.m. to 1.00 a.m. for a period of one month.

(iv) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses and the persons acquainted with the facts of the case.

(v) The Applicant shall produce the original documents which are in his custody, if directed, by the Investigating Officer.

(vi) The Applicant shall regularly attend the proceedings before the jurisdictional Court.

(vii) It is clarified that these prima facie observations are confined to determine the entitlement to pre-arrest bail only.

(N.J.JAMADAR, J.)