

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3139 OF 2022**

Anil Ambadas Lolage

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Samay Pawar i/b Mr. Shubham Mhatre for the Applicant.

Mr. Amit Palkar, APP for the State.

Mr. Amol Sawant, PSI, Vaarje Malvadi Police Station, Present.

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CORAM : N.R. BORKAR, J.

DATED : 17 JANUARY 2023

P.C. :-

This is an application under Section 438 of the Code of Criminal Procedure for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 424 of 2022 registered at Vaarje Malvadi police station for the offences punishable under Sections 386, 387 of Indian Penal Code and Sections 39, 45 of the Money Lending Act.

3. This Court on 14 November 2022 passed the following order:

- 1. Heard Mr. Joshi, learned counsel for the Applicant and learned APP for the State.*
- 2. Complainant is in the business of real estate – developer. He lodged a complaint, on 1 November 2022 against the Applicant and three others, making accusations of committing the offence of extortion.*

Whereupon, the Crime No. 424/2022 came to be registered at Vaarje Malvadi Police Station, Pune for the offences punishable under Sections 386 and 387 of the Indian Penal Code and Section 39 and 45 of Money Lending At, 2014. Applicant seeks pre-arrest bail inconnection with the said crime.

3. Complaint apparently indicates that in or around August, 2021 the Applicant had transferred a sum of Rs.35,00,000/- in the bank account of the complainant's firm, M/s. Yashraj Constructions and advanced Rs.15,00,00/- in cash, as a loan, then required by him. However, Applicant's case is that said amount was paid as consideration towards a shop, which M/s. Yashraj Constructions had agreed to sell and agreement was reduced to writing. Applicant's case is that since possession of the shop was not handed over, he vide notice dated 13 August 2022, sought refund of the said amount. It appears that the said notice was not replied by the Complainant. However, two months later, he lodged the subject complaint against the Applicant and others.

4. Learned APP, on instructions, submits that although the entire amount was repaid to the Applicant with interest as revealed in the investigation, the Applicant and the co-accused were insisting to pay in excess of loan amount, by putting the applicant in fear of injury.

5. In any case, prima facie the material on record shows that the amount of Rs.50,00,000/- were either advanced as a loan required by the complainant to complete the project or towards consideration of shop. In the backdrop of the above facts, prima facie accusations do not indicate that the Applicant had committed offence of extortion. Thus a case is made out for granting the pre-arrest protection till the next date. Thus the following order:

ORDER

(I) In the event of arrest of the Applicant in Crime No. 424 of 2022 registered with Vaarje Malvadi Police Station, Pune, he shall be released on bail on execution of P.R Bond in the sum of Rs.30,000/-, with one or more sureties in the like amount.

(ii) The Applicant shall report to the investigating officer on 23 November, 25 November and 29 November 2022 between 11.00 a.m to 1.00 p.m. and, thereafter, as when when called.

(iii) Stand over to 15 December 2022 for further consideration.

4. Prima facie, the reason for lodging the FIR appears to be commercial dispute. Considering the overall facts and circumstances of the case, I am inclined to allow the present application.

5. Interim order passed by this Court by order dated 14 November 2022 is hereby confirmed.

6. The applicant shall attend the concerned police station as and when called by the investigating officer and shall co-operate in the investigation.

(N.R. BORKAR, J.)