



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2853 OF 2023**

Oliver Joseph Rodriques	...	Applicant
versus		
State of Maharashtra	...	Respondent

Mr. Samir Hatle with Mr. Prathamesh Fernandes, for Applicant.
Mr. M.G.Patil, APP for State.
Mr. Manish Wankhade, API, EOW, MBVV, present.

CORAM: N.J.JAMADAR, J.

DATE : 11 OCTOBER 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.195 of 2023 registered with Arnala Police Station, now transferred to EOW, Mira Bhayander, for the offences punishable under Sections 120B, 406, 420 read with Section 34 of the Indian Penal Code.
3. The first informant lodged a report with the allegations that he had entered into a development agreement with M/s.Kapcon Ventures, of which Rahul Kapadia and Mamta Mali are the partners, to develop a land situated at Agashi. M/s. Kapcon Ventures could not develop the property as promised. The first informant contributed substantial amount for the development of the property. In consideration of the land and the amount invested by the first informant for the development of the

project, M/s. Kapcon Ventures agreed to transfer a number of flats in the said building, including a Flat No.801. In breach of the said agreement and with a view to deceive the first informant, Rahul Kapadia and Mamta Mali, partners of M/s. Kapcon Ventures, and the applicant, the Power of Attorney holder, have transferred the flats in favour of the third parties, including Flat No.801.

4. The learned Counsel for the Applicant submitted that the applicant has merely executed instrument on the strength of the specific Power of Attorney executed by Mamta Mali, partner of M/s. Kapcon Ventures. The applicant is not a privy to the fraud allegedly practiced by the partners of M/s. Kapcon Ventures.

5. The learned APP, on the other hand, submitted that the applicant was involved in another transaction in respect of Flat No.107. Number of persons have been duped and, therefore, the offences punishable under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors (In Financial Establishments) Act, 1999 have been invoked.

6. From the perusal of the allegations in the FIR, it becomes evident that the role of deceiving the first informant is primarily attributed to the partners of M/s. Kapcon Ventures. The allegation against the applicant is that the applicant had executed an instrument in respect of Flat No.801 in favour of co-accused, though the said flat was already sold to Aniket Wadivkar.

7. Prima facie, the applicant seems to have executed instrument on the

strength of the specific Power of Attorney executed in his favour by one of the partners of M/s. Kapcon Ventures.

8. While releasing the co-accused Stalin Joseph Rodrigues by an order dated 4 October 2023 in ABA No.2758 of 2023 on pre-arrest bail, this Court had, inter alia, recorded that the learned Additional Sessions Judge had directed the release of Rahul Kapadia, partner of M/s. Kapcon Ventures, on pre-arrest bail.

9. In the aforesaid view of the matter, to facilitate further investigation, the custodial interrogation of the applicant does not seem to be warranted. I am, therefore, impelled to exercise the discretion in favour of the applicant while directing him to join in the investigation.

10. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Oliver Joseph Rodrigues in connection with C.R.No.195 of 2023 registered with EOW Mira Bhayander 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.

(ii) The Applicant shall co-operate with the investigation and report to EOW, Mira Bhayander Police Station on 19th, 20th, 21st October 2023 in between 10.00 a.m. to 1.00 p.m.

(iii) 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.

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

(v) The Application stands disposed.

(N.J.JAMADAR, J.)