

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

ANTICIPATORY BAIL APPLICATION NO. 3211 OF 2022

Mr. Arun Jagdishprasad Gautam

.... Applicant

v/s.

The State of Maharashtra

.... Respondent

Mr. Shailesh Kantharia for the Applicant.

Ms. A.A. Takalkar, APP for the State.

Mr. Vinayak Patil for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 25th JULY, 2023.

P. C. :-

. The Applicant apprehends his arrest in C.R.No.1101/2022 registered with Oshiwara Police Station, Mumbai for offences punishable under sections 364-A, 365, 420, 467, 471 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicant, learned APP for the State and learned counsel for the Intervenor. 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 order passed by the learned Magistrate, Andheri under section 156(3) of Cr.P.C. The

Complainant has alleged that in the month of April, 2021, the Applicant herein informed him that his friend i.e., the co-accused – Suresh Sharma and Shrinivas Rao (A2 and A8) wanted investment in their business. The Applicant informed the Complainant that the land under Survey No.74, 75, 90, 91, 92, 93, 100, 101, 102, 162, 163, 172 and 173 was owned by the accused no.2 and that the accused no.2 was interested in developing the said land and wanted investors for the said purpose. The Complainant was also informed that the accused nos.2, 4 and 5 wanted to expand their business and that they were ready to give handsome returns on the said investment. The Applicant assured the Complainant that if he brings investment from Bank, financial institution or from private financiers, they would give him handsome brokerage.

4. The Complainant held meeting with the Applicant and others and agreed to bring investment on brokerage charges. The Applicant and others took full responsibility of returning the money to the investors with profit, that they would share profit from the business and also repay the principal amount in equal EMI. It was agreed that the Applicant and others would develop the land using the investors money. The Complainant was assured that he would be giving

brokerage charges of 3 Crores on total amount of Rs.150 Crores. The Applicant instructed the Complainant to get token amount of Rs.1 Crore from the investor. Since the investor was out of station, the Complainant arranged an amount of Rs.45,00,000/- and paid the same to the Applicant. The Applicant entered into a brokerage agreement with the Complainant. Subsequently, MoU was executed between the investor – Vijay Dwivedi and two others who claimed to be the owners of the land.

5. The Complainant subsequently learnt that one of the owners who had allegedly executed the Power of Attorney in favour of the Applicant, had already expired. Moreover, the persons who had signed the MoU as owners were infact impostors. The Complainant also learnt that major part of the property was already sold and charge was created in respect of the remaining portion of the land. The Complainant having learnt that he was cheated, demanded the money which was paid towards the token amount. The Applicant failed to pay the money and hence, the Complaint came to be lodged against the Applicant and others for the aforestated offence.

6. The records prima facie indicate that the Applicant herein was

involved in inducing the Complainant in entering into brokerage agreement by deceiving him that the accused nos.2 and others were owners of the property. The Applicant had also induced the Complainant herein to pay token amount of investment. The records prima facie reveal that the land which was to be developed, was already sold and the persons who posed as owners, were impostors.

7. The material on record thus prima facie shows the involvement of the Applicant in commission of the said crime. Learned APP also states that subsequent to filing of the FIR, the Applicant threatened the Complainant and that NC complaints have been registered. Considering the conduct of the Applicant, the possibility of the Applicant interfering with the witnesses and thus thwarting the course of justice, cannot be ruled out.

8. In view of the above facts and circumstances and considering the nature of the accusations against the Applicant and the material in support thereof, I am not inclined to exercise discretion under section 438 of Cr.P.C. Hence, the Application is dismissed.

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(SMT. ANUJA PRABHUDESSAI, J.)