

ANTICIPATORY BAIL APPLICATION NO. 3268 OF 2022

Mr. Amol Patankar I/b Vatsal A. Thakkar, for Applicants.
Mr. N. B. Patil, APP for State.
Mr. Yakub Shaikh, for Respondent No. 2, Org. Complainant.
Mr. Vikas D. Madake, PSI, Chakan Police Station, Present.

DATED:- 21st AUGUST, 2023

- 1) Heard the learned counsel for the parties.
- 2) This is an application for pre-arrest bail in connection with C.R. No.1564 of 2022, registered with Chakan police station, for the offences punishable under Sections 417 and 420 of Indian Penal Code, 1860.
- 3) The respondent No. 2- first informant lodged report against the applicant with the allegations that the applicant had induced her to execute a Memorandum of Understanding

dated 7th August, 2020, whereby she was made to part with land admeasuring 200 sq.ft. for the purpose of development, on the promise of delivering a shop premises admeasuring 300 sq. ft in the building to be constructed on the said land.

4) The applicant did not deliver the possession of the shop premises after the building came to be constructed thereon. The intention of the applicant was dishonest since the inception of the transaction.

5) The learned Counsel for the applicant submitted that the applicant has, in fact, forcibly obtained possession of one of the shop premises. Attention was invited to the allegations in the FIR to the effect that on 21st May, 2023, the first informant had obtained possession of a shop premises situated at basement and thereupon one Mr. Kiran Shevkari lodged a report against respondent and her daughter.

6) The learned APP and the learned Counsel for the respondent No. 2 contest the said position . An endeavour was made to submit that the respondent No. 2 - first informant is not in possession of the said shop premises.

7) At this stage, the allegations in the FIR clearly indicate that the first informant has obtained possession of a shop

premises, either rightly or wrongly. At any rate, having regard to the nature of the transaction, the question as to whether the intention of the applicant was dishonest since the inception of the transaction would bear upon the determination of the guilt of applicant at the trial. If it is the case of the non performance of the promise, in the absence of intention to deceive the promisee since inception of the transaction, it would not amount to cheating.

8) In any event since the MOU is on record, custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation.

9) I am, therefore, persuaded to exercise the discretion in favour of the applicant.

10) Hence, the following order:-

ORDER

I) The application stands allowed.

II) In the event of the arrest of the applicant in connection with CR No. 1564 of 2022, registered with Chakan Police Station for the offences punishable under Sections 417 and 420 of Indian Penal Code, 1860, the applicant be released

on bail on executing a PR Bond in the sum of Rs.30,000/- each and one or two sureties in the like amount.

III) The applicant shall attend Chakan police station on every alternate Monday in between 10 to 12 noon for a period of three months and co-operate with the investigation agency.

IV) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses.

V) The application stands disposed.

[N. J. JAMADAR, J.]