



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3042 OF 2023**

Ashwini Prakash More

... Applicant

versus

State of Maharashtra

... Respondent

Mr. Omkar Mayekar i/by Corpslegal, for Applicant.

Smt. A.A.Takalkar, APP for State.

Mr. Khilare, PI, Nirmal Nagar Police Station, present.

CORAM: N.J.JAMADAR, J.

DATE : 12 DECEMBER 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.281 of 2023 registered with Nirmal Nagar Police Station for the offences punishable under Sections 420, 506 read with Section 34 of the Indian Penal Code.
3. The applicant and her son are the owners of Flat No.401, Savitri Arcade, situated at Sector 23, Nerul, Navi Mumbai. The applicant and her son – co accused, entered into an Agreement to Sale the said flat to the first informant for a consideration of Rs.42 Lakhs. At the instance of the co-accused Rohan, the first informant claimed to have deposited a sum of Rs.25 Lakhs in the account of Mrs. Ashwini More, another co-accused and wife of Rohan. The first informant alleged that the said flat was already mortgaged with Raigad Janta Sahakari Patpedhi, Lalg

and yet the applicant and co-accused had entered into a Memorandum of Understanding to sell the said flat and induced the first informant to part with a sum of Rs.25 lakhs. Upon being confronted, the applicant and the co-accused allegedly abused and threatened the first informant. Hence, the report.

4. Learned Counsel for the Applicant submitted that no amount was credited to the account of the applicant. Co-accused Rohan was arrested and had since been released on bail. The transaction is purely of civil nature. Hence, the applicant deserves exercise of discretion.

5. Learned APP invited the attention of the Court to the MOU executed between the parties, under which the applicant and co-accused Rohan had agreed to transfer the said flat and had acknowledged receipt of part consideration of Rs.25 Lakhs.

6. Even if the prosecution case is taken at par, prima facie, the allegations appear to fall in the realm of failure on the part of the accused to perform a contract. Prima facie, there is no material to show that the intention of the applicant was dishonest since the inception of the transaction. In any event, the amount of Rs.25 Lakhs has been credited to the account of the co-accused. Rohan has since been arrested and released on bail. At this stage, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation.

7. Hence, the following order :

ORDER

(i) In the event of the arrest of the Applicant – Ashwini Prakash More in connection with C.R.No.281 of 2023 registered with Nirmal Nagar 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 Nirman Nagar Police Station on 20th and 21st December 2023 in between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed.

(iii) 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 or any of 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.

(vi) It is, however, clarified that the observations are confined to the consideration of entitlement for pre-arrest bail and the trial Court shall not be influenced by any of the observations in further proceedings.

(N.J.JAMADAR, J.)