

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

ANTICIPATORY BAIL APPLICATION NO. 3216 OF 2023

Pramod Prakash Buga ...Applicant

Vs.

The State of Maharashtra ...Respondent

Mr. Abhishek S. Mishra, for Applicant.

Mrs. A. A. Takalkar, APP for State.

Mr. Deepshikha Ware, PI, Khar Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 9th NOVEMBER, 2023

PC:-

1) Heard the learned counsel for the applicant and the learned APP for the State.

2) This application is preferred for pre-arrest bail in connection with C.R. No.492 of 2023, registered with Khar Police Station, Mumbai for the offences punishable under Sections 420, 406, 509 and 506 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The applicant is husband of accused No. 2 - Dhanashri Buga, who in furtherance of her common intention with co-accused James Monterio and Deepa Fakkad, had induced the first informant to part with a sum of Rs.8,00,000/- towards deposit by making false representation that Flat No.422, which was in the name of co-accused James Monterio, would be let out to him on a monthly rent of Rs.15,000/-. An agreement was executed on 19th July, 2022. When the first informant went to the premises, few persons were already in the occupation thereof. The co-accused represented to the first informant that the accused would pay rent of Rs.15,000/- pm till the time the said flat was vacated. When the first informant demanded refund of the deposit, and the co-accused threatened him with dire consequences.

4) The learned Counsel for the applicant submits that in the entire FIR, the applicant has nowhere been named. Yet, the applicant has been implicated only for being the husband of accused No. 2.

5) The learned APP submits that the material on record shows that a sum of Rs.1,80,000/- has been credited to the account of the applicant by the co-accused – Dhanashri, over a

period of time. Therefore, the applicant cannot be said to be a privy to the alleged offence.

6) I am afraid to accede to this submission. Prima facie, the applicant had not made any representation nor induced the first informant to part with any amount. In fact the FIR does not refer to the applicant even remotely. The credit of the amount by accused No. 2 in the account of the applicant from 7th July, 2022 to 17th June, 2023 in tranches of small amounts, in the circumstance, prima facie, does not increment the applicant.

7) I am, therefore, inclined to exercise the discretion in favour of the applicant.

8) Hence, the following order:-

ORDER

I) In the event of arrest of the applicant in connection with C.R. No.492 of 2023, registered with Khar Police Station, Mumbai for the offences punishable under Sections 420, 406, 509 and 506 read with Section 34 of Indian Penal Code, 1860, the applicant be released on bail on executing 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 attend Khar Police Station, Mumbai on 24th and 25th November, 2023 in between 10.00 am to 1.00 pm and, thereafter, as and when directed by the Investigating Officer.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]