

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

ANTICIPATORY BAIL APPLICATION NO. 3274 OF 2023

Shyamkant Mangesh Nerurkar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Shailesh Kantharia i/b Ms. Asmita Bhoir, for Applicant.

Ms. Anamika Malhotra, APP for State.

Mr. S. L. Chakane, PSI, Dahisar Police Station, Present.

CORAM:- N. J. JAMADAR, J.

DATED:- 7th DECEMBER, 2023

ORDER:-

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

2) This is an application for pre-arrest bail in connection with C.R. No. 286 of 2023, registered with Dahisar Police Station, Mumbai, for the offences punishable under Sections 420, 465, 467, 470 and 471 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The first informant is a divorcee. She was searching for a house premises. The applicant represented to her that he had known a broker – Mahesh Kadam, who would secure MHADA premises for her at a concessional rate. The applicant and the co-accused Mahesh had shown room No. 302, building No.9B and told the first informant that one Amin Kasam Dhakwala was the holder of the said premises. The first informant paid a sum of Rs.7,50,000/- to the applicant, Mahesh kadam and Shailesh Patil, the co-accused, in the house of the applicant in the presence of Mr. Vadkar. The applicant and the co-accused continued to make representations and induce the first informant to part with a total sum of Rs.15,00,000/-.

4) Eventually, it transpired that the said premises were in a transit camp. There was no person by name Amin Dhakwala, who was represented to be the owner of the premises. When the first informant confronted the applicant and the co-accused and asked them to either secure the transfer of the premises in her name or refund the amount, the applicant and the co-accused started to avoid her. Hence, the report.

5) The learned Counsel for the applicant submits that the applicant had no role in the alleged deception. The applicant had simply introduced the first informant to Mahesh Kadam. No amount was credited to the account of the applicant. Therefore, the applicant deserves the exercise of discretion.

6) The learned APP submits that the application of the co-accused Mahesh, being ABA No.2677 of 2023, was withdrawn when this Court had shown disinclination to entertain the application. The applicant is similarly circumstanced.

7) The learned APP further submits that there is material to show that the applicant was instrumental in making the representations and inducing the first informant to part with the amount. Believing the false representations made by the applicant, the first informant had parted with the amount. Therefore, the applicant cannot be permitted to wriggle out of the situation by simply asserting that he had only introduced the first informant to the co-accused.

8) I have read the statement of witness Pravin Vadkar in whose presence, the first informant had allegedly paid the amount to the applicant and the co-accused Mahesh. Mr. Vadkar lends support to the version of the first informant. In the

face of the material on record, it would be audacious to urge that the applicant's role was restricted to introducing the first informant to co-accused Mahesh. On the contrary, it appears that the applicant was the person, who had made the initial representation, stated that the room to be sold belonged to Dhakwala, accepted the amount along with co-accused Mahesh at his house and continued to make further representations. Believing the representations of the applicant, the first informant had paid the amount of Rs.15,00,000/-. Thus there is material to indicate the complicity of the applicant as well.

9) In the peculiar facts of the case, where an unsuspecting lady was deceived and false and fabricated documents were prepared to show that the subject premises stood in the name of Dhakwala and it could be allotted to the first informant, I am inclined to hold that it is not a fit case to exercise the discretion.

10) Prima facie, the applicant appears to be equally complicit with co-accused Mahesh. Custodial interrogation of the applicant is, therefore, warranted to facilitate further investigation.

11) Hence, the following order:-

ORDER

- I) The application stands rejected.
- II) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

[N. J. JAMADAR, J.]