

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

ANTICIPATORY BAIL APPLICATION NO. 3494 OF 2022

Tushar Balkrishna Gangan

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Ujwal Agandsurve a/w. Mr. Rajendra Khaire and Bhavana R. Khichi for the Applicant.

Mr. R.M. Pethe, APP for the State.

Mr. Mutahhar Khan i/b. Moinuddin Chowdhari for the Intervenor.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 13th MARCH, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No.1327 of 2022 registered with Samata Nagar Police Station, Kandivali, Mumbai for offences under Section 420, 406, 467, 468, 471 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Agandsurve, learned Counsel for the Applicant and Mr. Pethe, learned APP for the State and Mr. Khan 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 FIR lodged by one Sunil Ramesh Shetty, who is in advertising business. The FIR reveals that the Applicant and the co-accused Vinod Tawade had

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informed him that they were also in the same business, they were working as agents and assured him to procure No Objection Certificates from three societies I.e (i) Shreeji Industrial Premises Co-operative Society at Jogeshwari, (ii) Sukumar Co-operative Housing Society at Vile Parle and (iii) Sai Prasad Co-operative Society at Bandra. It is stated that the Applicant and the co-accused had received total sum of Rs.9,28,000/- on an assurance of getting No Objection Certificates from these three societies.. It is stated that the Applicant and the co-accused gave the No Objection Certificates, which on verification were found to be forged and fabricated. The Complainant has alleged that the co-accused had given a cheque of Rs.2 lakhs towards return of the money taken by him. The said cheque was dishonoured since the bank account was already closed.

4. The records prima facie reveal that the Applicant herein had received money on false assurance that he would obtain the No Objection Certificate. The records prima facie reveal that the NOC Certificates furnished to the Complainant by the Applicant and the co-accused were forged and fabricated. The records further reveal that on 23.12.2022, the Applicant had made a statement before this Court (Coram : M.S. Karnik, J.) that he was willing to deposit sum of Rs.9,28,000/- .He had handed over Demand Draft of Rs.1 Lakh to the Complainant to show his bonafides and had agreed to pay Rs.4,00,000/- by 18.01.2023 and the balance amount within four weeks thereafter.

The statement made by the Applicant was accepted as an undertaking to the Court and on the basis of the said statement, interim relief was granted.

5. The records reveal that apart from the payment of Rs.1,00,000/- the Applicant did not pay the balance amount. Learned Counsel for the Applicant states that the Applicant could not arrange the balance amount. The Applicant had not sought extension of time to make payment on such ground. The records reveal that the Applicant had obtained interim relief on the basis of a false statement. Considering the material on record, which prima facie shows involvement of the Applicant in commission of the offence, as well as the conduct of the Applicant, in my considered view, this is not a fit case which would justify exercise of discretionary power in favour of the Applicant. Hence the Application is dismissed.

(ANUJA PRABHUDESSAI, J.)