

Nikita

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

ANTICIPATORY BAIL APPLICATION NO.3558 OF 2022

Manisha Bajirao Ankushrao ... Applicant

V/s.

The State of Maharashtra and Anr, ... Respondents

Mr. Aniket Nikam a/w Amit Icham i/b Mr. Piyush T. for
the Applicant.

Mr. Vikas Shivarkar for the original complainant.

Mr. Pandurang Gaikwad APP for the State/Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 6, 2023

P.C.:

1. This is an application filed under Section 438 of the Code of Criminal Procedure in connection with Cr. No.697 of 2022, dated 26th July 2022, registered with Hinjewadi Police Station Pune for the offenses punishable under Sections 406 and 420 of Indian Penal Code.

2. The prosecution case in short is to the effect that the complainant executed registered sale deed of property bearing survey No. 30/3 admeasuring 1H, 40.5 R and Survey No.30/6 admeasuring 30.5 R for consideration of Rs.7,01,25,000/-. According to terms of sale deed, balance consideration was to be paid within one year and only thereafter names of owner would be entered in revenue extract. The purchaser firm paid part consideration of Rs.3,91,75,000/- to the complainant. Because of objection raised by the complainant, consequential entry was not

effected in revenue extract. However, the firm on 4th February 2016, executed registered deed in favour of the third party purchasers.

3. According to the complainant, the purchaser firm sold the property to third party purchasers at lesser price, with intention to cheat the complainant. According to the complainant, the sale of land in favour of third party purchasers without paying balance consideration, as agreed in the terms of registered sale deed dated 21st May 2015 constitutes dishonest intention as per Section 406 and 420 of Indian Penal Code.

4. The applicant therefore applied for pre-arrest bail under Section 438 before the Sessions Judge, which has been rejected by the Sessions Judge.

5. From the material placed on record, it appears that sale deed dated 21st May 2015 was executed in favour of M/S A.B. Developers which is registered partnership firm under the provisions of Partnership Firm Act 1932. The applicant is the power of attorney holder on behalf of one of the partner of the partnership firm. Promise to pay balance consideration under the terms of sale deed was made by two partners namely **Mr. Ashok Ramchandra Bankar** and **Mr. Gopal Krushna Bajirav Ankushrav**. The present applicant who acted as power of attorney holder of one of the partner. Prima facie there is no obligation to fulfill the promise made under registered instrument of 21st May 2015. The execution of subsequent sale deed by the partnership firm along with its partners has no consequence of attracting at this stage any

dishonest or fraudulent intention on the part of the applicant, either under Section 406 or 420 of Indian Penal Code.

6. Learned APP and learned advocate for the complainant, are in a position to point out any act on the part of the present applicant which constitutes fraudulent or dishonest intention before entering into registered instrument dated 21st May 2015. Therefore in my opinion, custodial interrogation of the applicant is not required. Hence following order:

- (a) The Anticipatory Bail Application is allowed.
- (b) In the event of arrest of applicant, in connection with Cr. No.697 of 2022, dated 26th July 2022 registered with Hinjewadi Police Station Pune for offenses punishable under Section 406 and 420 of the Indian Penal Code. The applicant shall be released on bail on furnishing P.R. bond of Rs.50,000/- and one or two sureties in the like amount.
- (c) The applicant shall make herself available for investigating as and when called by the investigating officer.
- (d) The applicant shall not influence the condition.
- (e) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

7. It is made clear that the observations made in the present order are for the purpose of adjudication of the rights of applicant qua Section 438 and shall not influence the Trial Court in Trial.

(AMIT BORKAR, J.)