



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3449 OF 2023**

Manojkumar Anandrao Gavai	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. R.D.Suryawanshi with Mr. Suraj Naik, for Applicant.
Smt. Ashwini Takalkar, APP for State.
Mr. N.A.Shaikh, PSI, Ambad Police Station, Nashik City, present.

CORAM: N.J.JAMADAR, J.

DATE : 13 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.765 of 2023 registered with Ambad Police Station for the offences punishable under Sections 420, 468, 467, 471 read Section 34 of the Indian Penal Code.
3. The applicant allegedly represented to the first informant that he was an Advocate by profession and Plot No.1 admeasuring 297 sq. mtrs., bearing Survey No.59/21/B/1 situated at Gangapur, belonging to Suresh Premchand @ Premchand Chaudhary, was available for sale, however, the original documents of title pertaining to the said property were lost. The applicant had allegedly obtained a Certificate of loss of documents from the Police Station and by setting up an impersonator, got executed an Earnest Note and obtained a sum of Rs.2 Lakhs from the first informant.

4. The Applicant had initially approached the court of Session when the FIR was yet not registered. By an order dated 21 November 2023, the learned Additional Sessions Judge declined to exercise discretion in favour of the applicant advertent to the nature of the allegations against the applicant and the material in support thereof.

5. Learned Counsel for the applicant submitted that a sum of Rs.15,000/- only was credited to the account of the applicant. The claim that the applicant has paid an amount of Rs.2 Lakhs is exaggerated. The role of the applicant was limited to introducing original holder of the plot to the first informant. Original holder of the plot, after the first informant published a notice in newspaper, resiled from the transaction. In any event, according to the learned Counsel for the Applicant, custodial interrogation of the applicant is not warranted.

6. Learned APP countered the submissions on behalf of the applicant. It was submitted that there is overwhelming material to show that the applicant had obtained certificate from Ambad Police Station that the original documents pertaining to the subject plot were lost and by setting up an impersonator, induced the first informant to part with the amount. Copies of the original and forged Aadhar cards of the holder of the property Suresh Chaudhary were tendered for the perusal of the Court.

7. I have perused the allegations in the FIR and the investigation papers.

Prima facie, there is material to show that the applicant had obtained a certificate in the name of the original holder of the subject plot that the original documents in respect of the subject plot were lost, set up an impersonator as the holder of the plot and induced the first informant to enter into transaction with him. It further appears that a part of consideration was also transferred to the account of the applicant. The fraud was unearthed when the first informant published a notice as part of process of title search. Thereupon, the original holder addressed a notice to the Advocate for the first informant.

8. In the backdrop of the aforesaid material on record, the submission on behalf of the applicant that the applicant merely acted as a go-between does not merit acceptance. Prima facie, the applicant had brought the impostor to the first informant for negotiations to purchase the said plot and induced the first informant to enter into an agreement to purchase the same. Custodial interrogation of the applicant is warranted to facilitate further investigation with regard to the forgery of the Aadhar card, unmask the identity of the person who impersonated the original holder and also have money trail.

9. In the backdrop of the nature of the accusation, release of the applicant on pre-arrest bail would jeopardise the interest of fair and effective investigation. I am, therefore, not inclined to exercise discretion in favour of the applicant.

10. Hence, the following order :

ORDER

- (i) The application stands rejected.
- (ii) 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.)