



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2530 OF 2023**

Harish Manohar Jani ... Applicant
versus
The State of Maharashtra and Anr. ... Respondents

Mr. Ritesh Thobade with Ms. Zubi Ansari, for Applicant.
Mr. A.A.Naik, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 5 AUGUST 2024

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.488 of 2023 registered with Sadar Bazar Police Station, Solapur, for the offences punishable under Sections 417 and 420 of the Indian Penal Code.
3. By an order dated 7 September 2023, this Court has granted interim bail observing, inter alia, as under :

“3.The indictment against the applicant is that the applicant had initially sold Plot No.23 to the first informant and later on again sold the said plot by sub-dividing the said plot into Plot Nos.23 and 23-A to a third party.

4. The learned Counsel for the Applicant submitted that there was a genuine dispute regarding the development of the plot. It was not the intention of the applicant to deceive the purchasers. The learned Counsel for the applicant submits that without prejudice to the rights and contentions of the applicant, the applicant is willing to deposit the sum of Rs.2,70,000/-, the consideration shown in the subsequent sale-deed, in this

Court.

5. In view of the aforesaid statement, it may be appropriate to implead the first informant as a party Respondent to this application and grant interim protection to the applicant.”

4. Learned Counsel for the Applicant, on instructions, submitted that the applicant has deposited the amount of Rs.2,70,000/- in this Court. The applicant has appeared before the IO and co-operated with the investigation.

5. By the said order, the first informant was directed to be impleaded as Respondent No.2 to the application. Though vakalatnama on behalf of Respondent No.2 has been filed, none appeared for the Respondent No.2 on the previous date and today also.

6. In the backdrop of the nature of the accusation, the question as to whether the intention of the applicant was dishonest since the inception of the transaction or there was a genuine dispute about the development of the plot would be a matter for adjudication at the trial. The applicant has deposited the sum of Rs.2,70,000/-, the consideration shown in the subsequent sale-deed. The offence under Section 420 of IPC entails punishment which may extend to 7 years.

7. In the aforesaid view of the matter, I am impelled to make the order of interim bail absolute.

8. Hence, the following order :

ORDER

(i) The order of interim bail dated 7 September 2023 is made absolute on the terms and conditions incorporated therein.

(ii) The applicant shall henceforth appear before the IO as and when directed.

(iii) In the event the chargesheet is lodged, the applicant shall regularly attend the proceedings before the jurisdictional Court.

(iv) The amount of Rs.2,70,000/- deposited by the Applicant be remitted to the Court of Judicial Magistrate, exercising jurisdiction over the Sadar Bazar Police Station, along with the interest accrued thereon, if any, till date of transfer.

(v) The learned Magistrate shall, in turn, deposit the amount to be transferred by the Registry of this Court in an interest bearing account and the said amount shall abide the decision of the proceedings arising out of C.R.No.488 of 2023.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for pre-arrest bail only.

Application disposed.

(N.J.JAMADAR, J.)