

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 376 OF 2024

Jitesh Narayan Nashine

.... Applicant

Versus

The State of Maharashtra

.... Respondent

YUGANDHARA
SHARAD
PATIL

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Ms. Amita Chaware i/b Amita Chaware and Associates, for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 23rd FEBRUARY, 2024

PC. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No. 390 of 2018 registered at Mumbai Naika Police Station, Nashik City, on 17/12/20218 under Section 420 r/w Sec. 34 of the Indian Penal Code.

2. Heard Ms. Amita Chaware, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the Respondent-State.

3. The FIR is lodged by one Shivaji Patil. He has stated that in 2009 he got acquainted with one Sachin Nafade. He told the informant that he was Chief of the Nashik Office of the company by name Phoenix Innfra Pvt. Ltd. That Company's plots were available for sale at Devpur, Taluka Sinnar. He told the informant that the present Applicant was Chairman, Jivani was Managing Director and Vijay Gautam was Director. They were residing at Nashik. The informant went to the company's office at Nashik. Sachin Nafade showed him a map. The informant selected two plots bearing Nos. 631 and 632 from that map. The informant paid Rs. 2,40,715/- and Rs. 2,41,715/- for these two plots. He thus paid Rs. 4,82,430/-. He completed the payment in September 2011. He, thereafter, requested the company to complete the formalities of executing sale deed but after that no steps were taken by the Company and the informant had lost his amount. On this basis, the FIR was lodged.

4. The investigation was carried out and the charge-sheet is filed. In that charge-sheet it is mentioned that there were

similar 24 investors who had made payment to the company and total amount paid by them was Rs. 1,18,59,468/-.

5. Learned counsel for the Applicant submitted that the applicant had resigned from the said company on 23/04/2016. Learned counsel heavily relied on the order passed by the Additional Sessions Judge-3, Nashik on 11/11/2021 in Criminal Bail Application No. 1448 of 2021 in respect of the co-accused Vijaykumar Manikram Gautam. The said co-accused was granted bail in connection with the same C.R. No. I-390 2018 registered with Mumbai Naka Police Station, Nashik. Learned counsel therefore claimed for parity for the present Applicant as the role of the co-accused was similar to that of the present Applicant.

6. Learned APP produced the investigation papers. There are statements of other people who had deposited different amounts with the company as mentioned earlier. Learned APP, on instructions of the IO and based on the investigation papers, fairly submitted that money trail did not lead to the present Applicant. This submission is in favour of the Applicant.

7. I have considered these submissions and I have perused the order granting anticipatory bail to the co-accused Vijaykumar Gautam. In that order there is a reference to a similar FIR registered at Ambad Police station vide C.R. No. I-324 of 2015 against the same Company and its directors. The applicant is already in custody in connection with the same C.R. No. I- 324 of 2015, registered at Ambad Police station as of today as submitted by learned APP through investigation officer. The learned Judge while granting anticipatory bail to the co-accused Vijaykumar Gautam has referred to said C.R. No. I-324 of 2015 and has observed that the said matter was already investigated by Ambad Police Station and various voluminous documents were seized by them. He has further observed that it was the Investigating Officer from C.R. No. 390 of 2018 of Mumbai Naka Police station who has taken custody of that accused as the said accused was in jail. In the present case also the Applicant is in jail in connection with C.R. No. I-324 of 2015 registered at Ambad Police Station.

8. In that view of the matter custodial interrogation of

that accused was not necessary in connection with C.R. No. 390 of 2018 of Mumbai Naka Police station. The same reasons apply with equal force to the Applicant's case as discussed earlier. The investigating agency has already submitted that there is nothing to show that the Applicant is the beneficiary. The charge-sheet in this case is already filed. Therefore on the ground of parity and in the background of aforesaid circumstances, the Applicant can be protected under Section 438 of Cr.PC. Hence the following order.

ORDER

- (i) In the event of his arrest in connection with C.R. No 390 of 2018 registered at Mumbai Naka Police Station, Nashik the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)