

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

ANTICIPATORY BAIL APPLICATION NO. 633 OF 2024

Majinder Singh Barar

..Applicant

Versus

The State of Maharashtra

..Respondents

Ms. Priyanka Sunil Dable a/w. Bhushan Ahire a/w. Shashank
Wadke for Applicant.

Mr. Nitin B. Patil, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 13 MARCH 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.410 of 2023, registered at Mira road Police Station, Mira Bhayandar, on 09.12.2023, under Sections 420 and 406 of the Indian Penal Code.

2. Heard Ms. Priyanka Dable, learned counsel for the applicant and Mr. Nitin Patil, learned APP for the State.

3. The F.I.R. is lodged by one Shambhu Maiti. He has stated that, he wanted to purchase a flat. Therefore, he told his friend Ajit Jha, who was an estate agent, that he wanted to

purchase a flat. Ajit took him to Flat No.101, E/4 wing, Gaurav City complex, Mira road. The flat was owned by the present applicant and it was available for sale. On 25.03.2023, the informant met the applicant. The applicant showed his flat which was admeasuring 400 sq.ft. The transaction was fixed at Rs.41 lakhs. The applicant told the informant that he had taken loan of Rs.34 lakhs on that flat from the N.K.G.S.B. Bank, Bhayandar. The applicant took the informant to that bank and introduced to the Manager. The informant was told by the bank Manager that the applicant had not paid the installments of home loan and, therefore, they were about to seize that property. But the applicant was given two months time as per his request. The applicant told the informant that, he would register the agreement within two months. The informant submitted the documents with the bank and, the bank sanctioned loan of Rs.20 lakhs. The informant was told that the applicant had not paid the maintenance of Rs.75000/- to the society.

4. On 02.04.2023, the informant met the applicant and Ajit. At that time, the applicant demanded Rs.1,50,000/- as token

amount. He also demanded Rs.1 lakh to pay the maintenance. The informant paid him Rs.1 lakh, but the applicant did not pay the maintenance. Thereafter, the informant arranged for money and paid total Rs.17,50,000/- to the applicant. Ultimately, the applicant did not execute the document of sale deed. He returned only Rs.2 lakhs. The applicant left that place and went to some unknown address. The informant found out his address and went to recover his money, but the money was not refunded to him. On this basis the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the allegations are not true. The applicant is willing to co-operate with the investigation. The applicant had paid an amount of Rs.15 lakhs to one Abhishek and, therefore, he has not enjoyed the amount which he had received from the informant. She, therefore, submitted that, no offence is made out and he may be protected. The applicant has filed a complaint against Abhishek.

6. Learned APP relied on the allegations in the F.I.R. The statement of the broker Ajit is recorded and he has supported the

informant's case.

7. I have considered these submissions. The offence of cheating and misappropriation is clearly made out in the F.I.R. The applicant had not only avoided to refund the money, give possession of the flat, execute the sale deed, but he had also absconded; so that, the informant was unable to find him. In spite of all this, the applicant has not taken any steps towards refunding the money or giving the flat to the informant. The statement of Ajit, as rightly submitted by the learned APP, supports the case of the informant. The applicant has refunded only Rs.2 lakhs. As far as, complaint against Abhishek is concerned, this has nothing to do with the transaction with the informant. The informant has lost his money. There is no justification given by the applicant. No case is made out on merits which would support the applicant in any manner. His custodial interrogation is necessary. He cannot be protected U/s.438 of the Cr.p.c.

8. The application is rejected.

(SARANG V. KOTWAL, J.)