

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2253 OF 2021

Surendra @ Appa Narayan Chikhale : Applicant/Accused
Vs.
The State of Maharashtra : Respondent

Adv. Nilesh Pandey a/w Adv. Sameer Vispute & Adv. Priyank Shukla i/by
Adv. Nilesh Pandey, for the Applicant.
Mr. B. V. Holambe Patil, APP for the State.

CORAM : KISHORE C. SANT, J.
DATE : 18TH APRIL, 2024

PC. :

1. Heard the parties.
2. The allegation as appearing from the F.I.R. against the present Applicant is only that when the Informant entered into agreement with other Accused persons namely Shetty for purchase of flat No.7 in the building and when he went to see the flat, it was found that the present Applicant has given the said flat on rent to some other person. There is no agreement or any transaction between the Informant and the Applicant. Whatever transaction has taken place and whatever money is paid is between Informant and the Shetty.
2. This Applicant is protected since 2021, by order dated 30th September, 2021. The Applicant has also attended the police station time

to time. Today the Applicant has also produced on record Affidavit submitting that he has complied with the conditions of this Court and has attended to police station.

3. The Learned APP opposes the Application stating that the Applicant has taken possession of the flat No.7 unauthorisedly. He points out the statement of the person who is staying in flat No.7 as a tenant. From the said statement what appears is that the tenant is inducted without any formal agreement. No documents or NOC are shown to the tenant.

4. From the investigating papers it is seen that in 2014 itself there was an agreement (before notary) between present Applicant and other Accused namely Rahul Narayan Kadam & Umesh Baburao Kadam in respect of the property. Development rights given to the present Applicant. The Applicant cannot be said to be totally a stranger as it is the case of the Applicant is that towards development he was to be given possession of two flats in the building. Looking to the Agreement by the Informant with the other Accused and also as per the allegation is in the year 2018. There is no allegation that any amount is paid to the present Applicant. The allegation so far as payment is concerned is made to other Accused person. Thus nothing is there to indicate that this Applicant has received the

amount from the Informant or there is any privity of contract between them. Now the chargesheet as against other Respondents is filed long back on 8th September, 2021, no charge sheet is however filed against the present Applicant. Prosecution is free to investigate & file chargesheet against the Applicant. At at this *prima facie* stage there is nothing to indicate that it is this Applicant who has either taken amount from Informant. Since the Applicant is already on protection and in the meantime he has complied to the conditions of the order. This Court is of the opinion that the Application deserves to be allowed. Hence the following order.

ORDER

- (a) Application is allowed.
- (b) The Applicant be released on bail in the event of his arrest in connection with F.I.R. registered with Kalyan Taluka Police Station bearing No.310 of 2020 dated 29th June, 2020 for the offences punishable under Section 420 read with Section 34 on furnishing P. R. bond and one solvent surety in the sum of Rs.15,000/-.

- (c) The Applicant shall attend police station as and when called for by the police.
- (d) Applicant shall give his address and mobile number to the police. If there is any change in the said information the same shall be immediately informed.
- (e) The Applicant shall not try to contact any witness or tamper in the evidence.
- (f) Application stands disposed of.

(KISHORE C. SANT, J.)