

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

ANTICIPATORY BAIL APPLICATION NO.3301 OF 2023

Emaduddin Kabiruddin Shaikh

...Applicant

versus

The State of Maharashtra

.... Respondent

Mr. Rishab Batadra i/b Sameer Khan for the Applicant.

Ms. Sharmila S. Kaushik, APP for the State/Respondent.

Mr. Shrishail Chiwadshelti (I.O.)- PI, Shahunagar Police Station.

CORAM : SARANG V. KOTWAL, J.

DATE : 4th JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R. No.225 of 2023 dated 7th August 2023 registered at Shahunagar Police Station under Section 420 read with Section 34 of IPC.
2. Heard Mr. Rishab Batadra learned counsel for the Applicant and Ms. Sharmila S. Kaushik, APP for the State. The FIR is lodged by Shashikala Waghmare. She wanted to purchase a room for residence. One Juber and one Gulam Murtuza Abdul

Shafi Sayyed showed her a room at Dharavi. She decided to take that room. It was decided that she was to pay deposit of Rs.5,00,000/- (Rs. Five Lakh Only). She paid the deposit, but the room was not given to her. The room was in the name of Gulam Murtuza's mother. In further inquiry, she came to know that there were other victims. Five other victims are named in the FIR. All of them together were cheated for the amount of Rs.15,20,000/- (Rs. Fifteen Lakh Twenty Thousand Only). On this basis, the FIR is lodged. The present Applicant is not named in the FIR.

3. Learned APP on instructions states that the investigation has revealed that the Applicant had shown the same premises to one Shabnam Bano Hesham Ulla Shaikh and Mohammad Gayasuddin Ansari. They had paid Rs.3,00,000/- (Rs. Three Lakh Only) and Rs.55,000/- (Rs. Fifty Five Thousand Only) to the applicant respectively. The applicant had acted as a broker.
4. Learned counsel for the applicant submitted that the applicant was not the main accused. He was also made to

believe by the main accused Gulam Murtuza Abdul Shafi Sayyed that the room was available. Without prejudice to his rights and contentions, the Applicant is voluntarily willing to deposit Rs.1,40,000/-(Rs.One Lakh Forty Thousand Only). He further submitted that out of the amount mentioned, the Applicant had actually received Rs.85,000/- (Rs.Eighty Five Thousand Only) from Shabnam Bano Hesham Ulla Shaikh and Rs.55,000/- (Rs. Fifty Five Thousand Only) from Mohammad Gayasuddin Ansari. He had returned Rs.15,000/- (Rs. Fifteen Thousand Only) to Shabnam Bano Hesham Ulla Shaikh. Therefore, balance amount is Rs.1,40,000/- (Rs. One Lakh Forty Thousand Only). The Investigating Officer who is present in the Court accepts this position.

5. Though the applicant still has to explain why the same premises were shown to two different persons, and why money was accepted from both of them, the statement made by the learned counsel for the Applicant regarding deposit of money can be taken into consideration for granting relief to the Applicant. In case the Applicant deposits that amount, that will

show his bonafide intention. In that case he can be protected from arrest.

6. Hence, the following order :

ORDER

- (i) The Applicant shall deposit Rs.1,40,000/- (Rs.One Lakh Forty Thousand Only) in the registry of the Metropolitan Magistrate's Court at Bandra as the FIR is lodged under the jurisdiction of that Court. This shall be done within a period of one week from today.
- (ii) Only on compliance of this condition, in the event of his arrest in connection with C.R. No.225 of 2023 registered with Shahunagar Police Station, the applicant is directed to be released on bail on his executing PR bond in the sum of Rs.30,000/- (Rs. Thirty Thousand Only) that with one or two sureties in the like amount.
- (iii) The interim protection granted to the Applicant by the order dated 28th November 2023 shall continue for a period of one week from today.
- (iv) The Applicant shall cooperate with the investigation.
- (v) The aforementioned victims Shabnam Bano

Hesham Ulla Shaikh is permitted to withdraw the amount of Rs.85,000/- (Rs. Eighty Five Thousand Only) and the other victim Mohammad Gayasuddin Ansari is permitted to withdraw Rs.55,000/- (Rs. Fifty Five Thousand Only) if deposited before that Court.

- (vi) The concerned Court with the assistance of the Investigating Officer shall ensure that the amount is returned to the proper person.

7. With these directions, the Anticipatory Bail Application stands disposed of.

(SARANG V. KOTWAL, J.)