

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

ANTICIPATORY BAIL APPLICATION NO.3621 OF 2023

Mayuresh Sitaram Kadam Applicant

versus

State of Maharashtra Respondent

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- Mr. Sunny Waskar a/w Dilip Gapla and Harshada Morey and Satish Pandey i/b. Ashok Shukla, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.
- Ms. Trupti Khamkar a/w Isha Gadi, Advocate for original Complainant.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.26/23, dated 25/01/2023, registered with Charkop Police Station, Mumbai, under sections 406, 420 r/w 34 of the Indian Penal Code.

2. Heard Mr. Sunny Waskar, learned counsel for the Applicant, Ms. Trupti Khamkar, learned counsel for the original

complainant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by Chandrasen Melekar. He has stated that he wanted to purchase a house in Malad in 2018. He got in touch with the present Applicant. The informant was told that the Applicant was an agent, who was in a position to get a flat for the informant. The Applicant showed him a flat in Building No.5, New MHADA Colony, 6th floor, Jankalyan Nagar, Malad (W), Mumbai. The informant was told that the said room belonged to one Deepak Badreshwara and the price was Rs.24,50,000/-. When the informant went to the room, it was shown to him by the Applicant as well as the owner Deepak. The informant decided to purchase that flat. On 25/02/2018, the informant paid Rs.10,000/- to the Applicant. Thereafter, he transferred Rs.51,000/- in the Applicant's account at his instance. On 11/03/2018 the informant was told that the Applicant had prepared a Memorandum of Understanding and a cheque for Rs.1,00,000/- was given in the name of the owner

Deepak Badreshwara. Subsequently two blank cheques for Rs.2,50,000/- and Rs.2,00,000/- were given to the Applicant on 14/04/2018 by the informant. Out of those cheques, the cheque for Rs.2,00,000/- was encashed in the account of one Satish Khope and Rs.2,50,000/- was encashed in the account of Deepak Badreshwara. On 09/09/2018 two more cheques for Rs.3,00,000/- and Rs.2,00,000/- respectively were given, which were encashed by the Applicant and Deepak respectively. Subsequently, even Rs.50,000/- in cash was paid to the Applicant through one Prakash Yadav. Thus, in all Rs.14,61,000/- were taken by the Applicant. Subsequently, the room was not given and money was misappropriated. On this basis, the FIR is lodged.

4. Learned counsel for the Applicant submitted that the main accused Deepak Badreshwara was granted anticipatory bail by the Sessions Court and therefore on the ground of parity the Applicant deserves the same treatment and protection. He submitted that the Applicant is not keeping good health and he

is on Dialysis. He further submitted that the Applicant's Anticipatory Bail Application was rejected by the Sessions Court on an erroneous finding regarding his antecedents. He submitted that he had paid the amount received by him to the owner Deepak.

5. Learned APP as well as learned counsel for the Intervenor opposed this application. According to learned counsel for the Intervenor, the Applicant has used this same modus operandi and he has cheated other persons as well.
6. Learned APP produced certain statements recorded during the investigation process. She relied on the statement of Satish Khope, Shashikant Kadam and Riddhi Naik. These statements show that the Applicant had similarly promised to get a flat for Satish Khope. Another agent Shashikant Kadam was involved in that transaction. Another flat purchaser Riddhi Naik was also made similar representation. On those occasions, the flats were not given to Riddhi Naik and Satish Khope, inspite

of accepting money from them. Their statements show that the cheque given by Riddhi Naik for purchase of a room was deposited in the Applicant's wife's account. When that amount was to be returned, Riddhi was given a cheque issued by Deepak Badreshwara. Learned APP submitted that the said Deepak was the owner of the room which is the subject matter of the present FIR. He had returned that money to the Applicant, but the Applicant instead of returning that money to the first informant gave that cheque to Riddhi Naik to settle her dues.

7. Similarly, the FIR itself mentions that one of the cheques given by the first informant, was deposited in the account of Satish Khope. It is corroborated by the statements of Satish Khope and Shashikant Kadam. Thus, the Applicant had used the money which was paid by the informant to settle his own dues with other persons. The Applicant has played a definite distinct role from the owner Deepak. Therefore, principle of parity will not apply to him. All these statements show that the Applicant has been indulging in fraudulent

transactions with different people. Therefore, he deserves no sympathy. His custodial interrogation is absolutely necessary to find details of his activities and trail of amounts received by him.

8. The Applicant is not keeping good health as submitted by learned counsel for the Applicant. However, it would be the responsibility of the Investigating Officer to provide him proper medical treatment.

9. In this view of the matter, I do not find any substance in this application. The application is accordingly rejected.

(SARANG V. KOTWAL, J.)