

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

ANTICIPATORY BAIL APPLICATION NO.326 OF 2024

Mohammad Asif Mustafa Qureshi ..Applicant
Versus
The State of Maharashtra ..Respondent

Mr. Nadeem A. Sheikh i/by Shadab Khopekar, for the Applicant.
Smt. Sangita D. Shinde, APP for the Respondent/State.

CORAM : SARANG V. KOTWAL, J.

DATE : 22nd AUGUST, 2024

P. C.

1. The Applicant is seeking anticipatory bail in connection with C. R. No.377 of 2023 registered with Mira Road Police Station, Mira Bhayander on 3rd November, 2023 under Sections 376(2)(n) and 420 of the Indian Penal Code.

2. Heard learned counsel for the Applicant and learned APP for the Respondent/State.

3. The FIR is lodged by the victim herself. She has stated that she was 29 years of age. In January, 2023, she got in touch with the present Applicant through a dating application. Thereafter they got friendly. They met in person on 31st January, 2023. The allegations in the FIR are that the Applicant told her that he would marry her and on his promise they had their physical relations,

though, she has stated that on the first occasion it was against her wish. Even thereafter, whenever they had physical relations at different places on different occasions, she has stated that it was against her wish. The FIR further mentions that in March, 2023, the Applicant had told the informant that he was planning to purchase a flat in her name. He showed her a flat at Mira Road. He further told her that he had fixed the said transaction for Rs.1,56,00,000/-. He suggested that the informant also should contribute to some extent. It is her case that she paid Rs.2,20,000/- through a cheque and certain amounts through Gpay. Thus, in all, she had paid Rs.16,86,801/-. Subsequently, the Applicant blocked her phone number. He was not reachable. The informant realized that she was cheated and then she lodged this FIR.

4. Learned counsel for the Applicant submitted that the allegations in the FIR are false. The informant and the Applicant were in consensual relationship, but due to personal reasons they decided to part their ways. Thereafter, the informant started harassing the Applicant. In fact, the Applicant had given a complaint to Senior Inspector of Police, Naya Nagar Police Station, Mira Road on 2nd September, 2023 mentioning the incident dated 29th August, 2023. He was abducted and assaulted. He was made to sign some documents. He submitted that after this complaint was made, the first informant has lodged this FIR. He further added that the Applicant was protected by ad-interim order dated 5th February, 2023 in this Application. At that time, there was a reference to the

investigation papers which contain an agreement in the nature of promissory note purportedly executed by the Applicant in respect of Rs.3,00,000/- dated 30th April, 2023 and a declaration purportedly executed on 31st August, 2023, wherein the Applicant has allegedly accepted to pay back Rs.14,65,000/- to the informant. Learned counsel submitted that there was no reference to booking of a flat. There was no mention that the informant had paid any amounts for booking of the flat. He further submitted that the amounts which the informant had paid in the account of the Applicant through Gpay were small amounts and they were in repayment of the amount which the Applicant had given to the informant. The very fact that on many occasions only some small amounts were given to the Applicant would indicate that those amounts could not have been for the payment for booking of the flat.

5. The investigation papers also contain a statement of one Haider who has supported the case of the Applicant. Learned APP has accepted that Haider is not an accused. Haider has stated that the informant had taken money from the Applicant and from this witness Haider himself, on the pretext that the informant's mother was not well and that she needed money for her treatment.

6. From these facts, it can be seen that some reasonable doubt is created about the allegations made against the Applicant by the informant.

7. Learned APP on instructions of the Investigating Officer states that the Investigating Agency does not want the custody of the Applicant for investigation purpose. She further submitted that the informant has not produced any of the original documents viz. promissory note and the declaration. She further submitted that the Applicant has attended the concerned Police Station and has co-operated with the investigation.

8. Considering all these aspects, the Applicant can be protected by an order under Section 438 of CrPC. Hence, the following order :-

ORDER

(a) In the event of his arrest in connection with C. R. No.377 of 2023 registered with Mira Road Police Station, Mira Bhayander, the Applicant is directed to be released on bail on his executing PR bond of Rs.30,000/- with one or two sureties in the like amount.

(b) The Application is disposed of.

(SARANG V. KOTWAL, J.)