

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

ANTICIPATORY BAIL APPLICATION NO. 368 OF 2024

Kishor Keshavji Shah

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Bhomesh R. Bellam for Applicant.

Mr. Swapnil V. Walve, APP for State/Respondent.

Mr. Advait U. Shukla for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 8 AUGUST 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.854 of 2023 registered at Kashimira Police Station, Mira-Bhayandar, Vasai-Virar, on 28.12.2023 under sections 406 and 420 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Bhomesh Bellam, learned counsel for the applicant, Mr. Swapnil Walve, learned APP for the State and Mr. Advait Shukla, learned counsel for the Respondent No.2.

3. The gist of the allegations is that, in August 2019 the informant wanted to purchase a flat. Through a common friend

they came in contact with the present Applicant, who was a builder. The Applicant was constructing a building by the name V. M. Heights. The Applicant represented to the informant that a flat on the 5th floor bearing flat No.501 was available. It was a 2 BHK flat. He told that if the informant paid Rs.39,80,000/- within one month, he would sell that flat at that price and the possession would be given within one year. The informant paid that amount through 5 cheques. After that the Applicant did not give the possession of the flat. The informant came to know that the Applicant had permission for construction upto 5 floors only. She realized that she was cheated. The Applicant made a show of settling the matter by issuing two cheques, but they were dishonoured. Thereafter, this F.I.R. was lodged.

4. Today, the Respondent No.2. i.e. the first informant is represented by her counsel. Learned counsel for the Applicant, as well as, the learned counsel for the Respondent No.2 jointly tendered the terms of settlement/consent terms with the addendum. Both of them submitted that the matter is settled between the parties to the satisfaction of the first informant. The

copies of terms of settlement and addendum are taken on record and marked 'X' collectively for identification.

5. Learned APP, on instructions of the I.O., states that in the present subject matter, the first informant is the only victim and the dispute is strictly private between the informant and the applicant.

6. In this view of the matter, there is no impediment in granting protection U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.854 of 2023 registered at Kashimira Police Station, Mira-Bhayandar, Vasai-Virar, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)