



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.369 OF 2024**

Vishal Ashok Chugera

... Applicant

versus

State of Maharashtra and Anr.

... Respondents

Mr. Satyavrat Joshi with Mr. Samay Sharad Pawar for Applicant.

Mr. S.R.Agarkar, APP for State.

Mr. Ravindra K. Adsure i/by Sidheshwar N. Biradar for Respondent No.2.

PSI Mahadev B. Yalmar, Nigdi Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 12 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.

2. This is an application for pre-arrest bail in connection with C.R.No.664 of 2023 registered with Nigdi Police Station for the offences punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code.

3. In the month of July 2019, the applicant along with the co-accused had allegedly induced the first informant to part with a sum of Rs.1,10,00,000/- by making a representation that the plots will be sold to the first informant and, in a short span of time, those plots would generate huge return in the event of resale. The applicant and co-accused allegedly deceived the first informant by buying time on one or the other pretexts. When the first informant insisted for the sale of the plots or the return of the amount, the applicant and co-accused threatened the first informant with dire consequences. Having realized the fraud, the first informant lodged the report.

4. Learned Counsel for the applicant invited the attention of the Court to an order dated 12 December 2023 whereby this Court had granted interim protection to co-accused Manoj S. Rai, who is alleged to be an estate agent, and had introduced the applicant. Learned Counsel for the applicant submitted that without prejudice to the rights and contentions of the applicant, since the transaction was alleged to be that of sale of 8 plots for a consideration of Rs.1,10,00,000/-, the applicant is willing to deposit a sum of Rs.55,00,000/- in the trial court. An affidavit affirmed by the applicant is tendered across the bar.

5. Learned Counsel for the first informant submitted that the applicant owes huge amount of Rs.2,00,30,500/- to the first informant. Attention of the Court was invited to the averments in the affidavit in reply on behalf of the first informant, especially a mail addressed by Mr. Ajay Gupte whereby the details of the transactions between the parties are allegedly incorporated.

6. From the perusal of the material on record, it appears that the initial transaction between the parties was that of purchase of shops by the applicant in a building developed by the first informant. Out of the aggregate consideration, the first informant alleges that the applicant had not paid a sum of Rs.45,65,920/-. In lieu of the said balance consideration, the first informant was induced to enter into transaction to purchase plot in FireFly Scheme then allegedly being developed by the applicant and to part with consideration of Rs.1,10,00,000/-.

7. The pivotal question that would warrant consideration is whether the intention of the applicant was dishonest since the inception of the transaction or there was failure to perform contract. At this stage, so far as the purchase of four shops by the applicant from the first informant is concerned, it appears that a major part of the consideration was parted with.

8. In the circumstances, when a major part of the consideration was parted with, prima facie, it would be difficult to infer that the intention of the applicant in entering into the transaction with the first informant to purchase the four shops was dishonest since inception. The material on record indicates that subsequently there were a number of transactions between the parties.

9. In the aforesaid view of the matter and in the backdrop of the affidavit of the applicant that he is willing to deposit a sum of Rs.55 Lakhs, without prejudice to the rights and contentions of the applicant, the personal liberty of the applicant can be protected till the matter is heard after providing an effective opportunity to the prosecution and the first informant.

10. Hence, the following order :

ORDER

(i) As undertaken, the applicant shall deposit a sum of Rs.55 Lakhs in the trial court within two weeks from today, without prejudice to his rights and contentions.

(ii) In the event of the arrest of the Applicant – Vishal Ashok Chugera in connection with C.R.No.664 of 2023 registered with Nigdi Police Station, the Applicant be released on bail on furnishing a PR bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(ii) The Applicant shall co-operate with the investigation and report to Nigdi Police Station on 18th, 19th and 20th March 2023 between 10.00 a.m. to 1.00 p.m., and, thereafter, as and when directed.

(iii) The Applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the prosecution witnesses or any of the persons acquainted with the facts of the case.

(iv) Stand over to 1 April 2024 along with ABA No.3469 of 2023.

(N.J.JAMADAR, J.)