

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 391 OF 2024

Jitendra Harilal Parikh ...Applicant
Versus
State of Maharashtra and anr. ...Respondents

Mr. Akshay Kapadia, through VC a/w Ms. Priya Pervi, for the
Applicant.
Mrs. Geeta Mulekar, APP for the State/Respondent.
Ms. Gayatri Shahane, for the Ori. Complainant.
PI Gopal Bhosale, Vileparle Police Station, present.

CORAM: N. J. JAMADAR, J.
DATED: 27th FEBRUARY, 2024

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. Ms. Shahane, the learned Counsel, submits that she has instructions to appear on behalf of the first informant and undertakes to file an application for intervention.
3. The learned Counsel for the applicant shall amend the application so as to implead the first informant as a party respondent to this application.

Leave granted.

Necessary amendment be carried out forthwith.

4. This is an application for pre-arrest bail in connection with CR No.866 of 2023, registered with Vileparle Police Station, Mumbai, for the offences punishable under Sections 120B, 406, 420, 418, 417 and 409 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

5. The applicant is alleged to be a member of the managing committee of Om Prabhu Aashish Sahakari Grihnirman Society. The gravamen of indictment against the applicant and the co-accused is that the society had induced the first informant to invest huge amount for the redevelopment of the Society premises despite the society having already entered into a Development Agreement with a prior developer, which led to proceedings before the NCLT. The applicant and co-accused had not disclosed the said facts to the first informant and thereby deceived the first informant to part with an amount in excess of Rs.75,00,000/-.

6. The learned Counsel for the applicant submitted that the role attributed to the applicant is that of being a member of the managing committee in which the decision to entrust the development work to the first informant was allegedly

taken. The applicant is not the beneficiary of the alleged fraud.

7. The learned APP has resisted the prayer for pre-arrest bail. It was submitted that a sum of Rs.1,85,000/- has been credited to the account of the applicant. Moreover, original NOC is yet to be recovered from the managing committee of the society.

8. The learned Counsel for the first informant resisted the prayer for pre-arrest bail. It was submitted that the first informant was made to part with huge amount though the members of the managing committee were aware of the previous transactions and the security interest created over the society premises.

9. *Prima facie* it appears that the applicant was a member of the managing committee, whether the intention of the applicant was dishonest since the inception of the transaction would be a matter for investigation. The learned Counsel for the applicant, on instructions, submitted that the applicant is willing to deposit a sum of Rs.1,85,000/- which was credited to the account of the applicant. In the circumstances, till the matter is heard after providing an

opportunity to the first informant, it may be expedient to protect the liberty of the applicant.

10. Hence, the following order:

: O R D E R :

- (i) Issue notice to the respondents.
- (ii) The learned APP waives notice for respondent No.1/State.
- (iii) Ms. Shahane, the learned Counsel, waives notice for respondent No.2.
- (iv) The learned Counsel for respondent No.2 is at liberty to file affidavit-in-reply within a period of two weeks.
- (iv-a) As undertaken, the applicant shall deposit a sum of Rs.1,85,000/- in this Court within a period of one week.
- (v) In the event of arrest of the applicant in CR No.866 of 2023, registered with Vileparle Police Station, Mumbai, 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.

- (vi) The applicant shall cooperate with the investigation and attend Vileparle Police Station on 4th 5th and 6th March, 2024 between 10.00 am. to 1.00 pm. and, thereafter, as and when directed.
- (vii) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (viii) Stand over to 2nd April, 2024.

[N. J. JAMADAR, J.]