

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

ANTICIPATORY BAIL APPLICATION NO. 488 OF 2024

Brijeshkumar Jivram Mishra	..Applicant
Versus	
Investigating Officer & Anr.	..Respondents

Mr. Pankaj D. Jain, with Vishal Jaiswal, i/b PD. Jain & Co., for
Applicant.

Ms. Rajeshree V. Newton, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 28 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 113 of 2023 dated 29th March 2023 registered with Mira Road Police Station, under sections 420, 406, 120B of the Indian Penal Code(**"IPC"**). Subsequently, section 409 of the IPC has also been added.
2. Heard Mr. Jain, learned counsel for the applicant and Ms Newton, learned APP for the State.
3. The FIR is lodged by one Sumit Gupta. He has stated

that in 2017 to 2018 he was residing in Mumbai. He had a family and therefore, he wanted to purchase a flat. Therefore, one Aftab Alam who was an Estate Agent contacted him and told him that he was aware of some flats which the informant can consider. He referred to the Flat No. 504, C Wing, Gaurav Woods, Phase-II, Mira Road(East). It was in the building of the developer M/s Ravi Development. The informant went there. The Estate Agent Aftab Alam and he met the site manager Rohit. After negotiation, the informant decided to purchase the flat for Rs. 67 Lakhs. He paid Rs. One Lakh as token money for booking. This meeting took place on 14th July 2018. On 1st September 2018 when the informant again went to meet Rohit, that time partner of M/s Ravi Developers, Shri Gaurav Shah was present there. He told the informant that the said flat was already sold before accepting money from the informant. He suggested that there was one more flat available in the same complex on the 10th floor. For that he had to pay Rs. 8 Lakhs more.

4. On 5th February 2019 Aftab Alam called the informant and told him that Flat No. 1002, A Wing, Gaurav Woods, Phase II,

Mira Road was owned by M/s Y.M. Landmark. Pvt Ltd. Mr. Brijesh Mishra (i.e. present applicant) was one of the directors of that company. They had invested in that flat and that informant could purchase that flat from the applicant's company. There were two power of attorney holders namely, Vinod Singh and Vikas Singh for that flat on behalf of M/s Y.M. Land Mark Pvt. Ltd. The informant decided to purchase that flat for Rs 68,10,000/-. He immediately paid Rs. 9 Lakhs and then subsequently Rs. 22 Lakhs. For transaction of flat No. 1002 he paid Rs. 31 Lakhs. Subsequently he came to know that the flat was actually owned by Ravi Developers. The applicant's company had merely booked the flat. But their transaction was cancelled and that flat was sold to a third person. Therefore, the informant realised that he had lost his money and he did not get any flat.

5. Learned Counsel for the applicant without prejudice to his rights and contentions made a voluntary statement on instructions of the applicant that the applicant is willing to give another flat in the same building to the informant on payment of the balance amount. There are two flats available in the same

building, one is on the 8th floor and the other is on the 6th floor. If this proposal is not acceptable to the Informant then the applicant is willing to deposit the entire amount of Rs. 31 Lakhs with the reasonable interest within reasonable period in this court and the applicant shall not have any objection if the informant withdraws that amount. Considering this statement it appears that the applicant may have bonafide intention. Before passing any further Order it is necessary to hear the informant on these submissions. Till the informant is heard, the applicant can be protected by way of Ad-Interim Relief in the following order :

ORDER

- i) In the event of his arrest in connection with CR No. 113 of 2023 registered at Mira Road Police Station, till the next date the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.
- ii) This Order shall operate till 5th April 2024.
- iii) The applicant shall add first informant as a party

Respondent. The amendment shall be carried out within a period of two weeks from today. After the amendment is carried out, issue notice to the added Respondent, returnable on 5th April, 2024.

- iv) The Applicant shall cooperate with the investigation.
- v) Stand over to 5th April, 2024.

(SARANG V. KOTWAL, J.)