

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

ANTICIPATORY BAIL APPLICATION NO.765 OF 2024

Kashif Iqbal Ali Sayed & Ors.

.... Applicants

versus

State of Maharashtra

.... Respondent

.....

- Ms. Zulekha Sayed, Advocate for Applicant.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 22nd MARCH, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.643/2023, dated 25/04/2023, registered with Bandra Police Station, Mumbai, under sections 120-B, 420 of the Indian Penal Code.

2. Heard Ms. Zulekha Sayed, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

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3. The gist of the FIR lodged by the informant Asif Hamid Shaikh is that he wanted to purchase a room in the year 2020. The Applicant Kashif told him that he had a construction site at Chimbai village and told him that he could get one room for him. The discussion resulted in the informant agreeing to purchase that room. The price quoted was Rs.20 lakhs, but it was fixed for Rs.17,25,000/-. The FIR mentions that on various occasions, through bank transfer and through cash, the informant paid Rs.17,25,000/-. However, the room was not given to him. Instead he was told that another room at Chapel Road, Bandra was available for sale, for which he had to pay Rs.15 lakhs more. Even that offer was accepted by the informant and he paid Rs.15 lakhs more to all these Applicants. In all Rs.32,25,000/- were paid. But he was not given either of these rooms. On this basis, the FIR is lodged.

4. Learned counsel for the Applicants submitted that the informant is not a genuine purchaser, but was an investor and he was in the same business. He was knowing about the difficulties in completing the project. Therefore, no cheating is

made out. However, she submitted that without prejudice to their rights and contentions, the Applicants are willing to deposit the amount of Rs.32,25,000/- which is the subject matter of the FIR, within a reasonable time in phases.

5. Strictly considering these submissions, I am inclined to protect the Applicant by way of ad-interim relief. The Applicants will have to show their bonafides. She further submitted that the Applicants do not have any objection if the amount is permitted to be withdrawn by the informant.

6. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.643/2023, dated 25/04/2023, registered with Bandra Police Station, Mumbai till the next date, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) The Applicants are permitted to deposit Rs.15 lakhs as the first installment by 24/04/2024.
- (iii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iv) This order shall operate till 24/04/2024.
- (v) Stand over to 24/04/2024.

(SARANG V. KOTWAL, J.)