

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

ANTICIPATORY BAIL APPLICATION NO. 1234 OF 2024

Naresh Jagumal Karda

...Applicant

VS.

The State of Maharashtra & anr.

...Respondents.

Mr. Shirish Gupte, Senior Advocate i/b. Kishan Chaudhari,
Advocate for the Applicant.

Ms. Ranjana D. Humane, APP, for the Respondent No. 1/State.

CORAM : N. J. JAMADAR, J.

DATE : MAY 6, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 127 of 2023, registered with Upanagar Police Station, Nashik for the offences punishable under sections 406, 420 read with Section 34 of Indian Penal Code, 1860 and Section 3 and 4 of the Maharashtra Protection of Interest of Depositors (in Financial Institutions) Act, 1999.

3. The applicant had allegedly induced the first informant, a retired Colonel to part with a sum of Rs. 30 Lakhs towards booking amount in a project then being developed by the

applicant through the entity Shree Sainath Land & Development (India) Pvt. Ltd. The applicant had, thereafter, induced the first informant to part with a sum of Rs. 20 Lakhs in cash by making a false representation that the first informant would get lucrative returns. As agreed, the applicant paid a sum of Rs. 51,300/- per month for few months towards return on the said investment. Later on the cheques drawn by the applicant towards monthly return were dishonoured on presentment. The first informant realised that he was deceived. Further enquiries revealed that the applicant had deceived other investors as well.

4. Learned Counsel for the applicant submitted that the applicant's entity, Shree Sainath Land & Development (India) Pvt. Ltd., is a reputed developer. A number of projects are being developed in and around Nashik. On account of the disputes that arose, the project could not be developed within the stipulated period. It was submitted that in the backdrop of the allegations in the FIR, an offence punishable under section 3 of the MPID can not be said to have been made out as the first informant himself claimed that he had given Rs. 30 Lakhs by way of booking amount.

5. The learned APP resisted the prayer for bail and attention of court was drawn to the MOU executed by the applicant and the first informant.

6. The allegations in the first information report indicate that there were two transactions between the parties. The first appears to be the one of booking of the flat in the project developed by the applicant; the second is the advance upon a promise of return on investment as evidenced by the MOU. So far as the offence punishable under section 420 of the IPC is concerned, as the applicant has been developing properties in and around Nashik, the question as to whether the intention of the applicant was dishonest since inception of the transaction, may warrant consideration. The MOU indicates that the applicant had to return the amount at defined rates and intervals. Thus, whether the first informant was induced to invest the amount with intent to defraud, is also a matter for investigation.

7. In these circumstances, I am inclined to protect the liberty of the applicant by directing him to join in the investigation. In the backdrop of the nature of accusation, it may also be

expedient to implead the first informant as a party respondent.

8. Hence, the following Order :

ORDER

(i) The applicant shall amend the application so as to implead the first informant as party respondent to this application. Necessary amendment be carried out forthwith.

(ii) Issue notice to the added respondent. In addition to notice through court, applicant shall serve the respondent No.2 by private service.

(iii) Stand over to 21st June, 2024.

(iv) By way of Interim Relief, in the event of arrest in C.R. No. 127 of 2024 registered with Upanagar Police Station, Nashik, the applicant Naresh Jagumal Karda be released on bail on furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

(v) The applicant shall cooperate with the investigation and attend Upanagar Police Station, Nashik on 14/5/2024, 15/5/2024 and 16/5/2024 between 10 am to 1 pm and, thereafter, as and when directed.

(vi) The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

(N. J. JAMADAR, J.)