

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1501 OF 2024**

Bibhishan s/o. Laxman Phunde	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Kishor D. Khade for the applicant.

Mr. Mithilesh Mishra for original complainant.

Mr. Sagar R. Agarkar, APP for respondent-State.

Mr. Vilas Randive, PSI, Tembhurni Police Station.

CORAM : MANISH PITALE, J.

DATE : 12th JUNE, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP

2. In this case, the applicant is apprehending arrest in the context of FIR No.0241 of 2024 dated 14.05.2024 registered at Tembhurni Police Station, District Solapur Rural for offence under section 420 of the Indian Penal Code, 1860 (IPC).

3. The FIR has been registered on the basis of statement given by the informant alleging that the applicant took substantial amount of money i.e. Rs.53 lakhs from the informant with a promise to return the same within a period of six months. Having failed to do so, he executed an agreement in respect of an immovable property in favour of the informant. It is the case of the informant that on enquiries, he came to know that the applicant had

taken amounts from other persons also and executed similar documents in favour of such persons in respect of the same property, thereby indicating the *modus operandi* to cheat such persons, including the informant.

4. The learned counsel for the applicant submits that dispute in the present case is essentially of civil nature and that the informant has, in fact, initiated proceedings before the Civil Court in that regard. It is further submitted that a perusal of the agreement would show that even the informant knew that the subject land was Class-2, required to be converted to Class-1 before a sale deed could be executed. In such circumstances, the ingredients of the offence under Section 420 of the IPC cannot be said to be made out and therefore, this Court may consider allowing the present application.

5. The learned APP has opposed the prayer made in the present application. He has submitted that investigation is at nascent stage. He specifically brought to the notice of this Court that a further complaint was received against the applicant from another aggrieved person, who has stated that the applicant had taken money from him and executed a document with regard to the very same land. It is also submitted that the Sessions Court has taken into account the aforesaid *modus operandi* of the applicant, while rejecting the anticipatory bail application.

6. This Court has considered the material on record. The FIR having been registered on 14.05.2024, it is obvious that the investigation is at nascent stage. The material on record indicates that apart from the informant, the applicant has been taking money from others also and in that context, documents appear to have been executed in respect of the very same

land. It is necessary to allow the investigating authority to carry out the investigation as per its own procedure and granting any kind of relief in this application may stall the progress of the matter.

7. The applicant has not been able to make out a case in his favour and the observations made by the Sessions Court in its order dated 24.05.2024 while rejecting his anticipatory bail application, appear to be appropriate. The said observations regarding the applicant cheating other persons are fortified, when the learned APP has brought to the notice of this Court the recent complaint against the applicant, wherein it appears that he has taken recourse to the same *modus operandi* of taking money from many persons and thereupon, instead of returning the money, executing documents in respect of the very same subject land.

8. In the light of the above, this Court is unable to accept the contentions raised on behalf of the applicant.

9. Accordingly, the application is dismissed.

(MANISH PITALE, J)

Priya Kambli