IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1690 OF 2024

Nutan Dilip Shinolikar ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

WITH

INTERIM APPLICATION (STAMP) NO. 13267 OF 2024

IN

ANTICIPATORY BAIL APPLICATION NO. 1690 OF 2024

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- Mr. Mateen Shaikh a/w Mr. Suresh Jadhav, Mr. Arshad Shaikh and Ms. Muskan Shaikh, for Applicant.
- Ms. Megha S. Bajoria, APP for State.
- Mr. Siddharth R. Karpe, for Applicant in IAST/13267/2024.
- Mr. Bhabad, API, Bharti Vidhyapith Police Station, present.

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CORAM : MANISH PITALE, J.

DATE : 27th JUNE, 2024.

P. C. :

1. Heard, Mr. Mateen Shaikh, learned counsel for the applicant and Ms. Megha Bajoria, learned APP for the State, as well as Mr. Siddharth Karpe, learned counsel having instructions to appear for the informant, who has filed an intervention application.

2. In the present case, the applicant has approached this Court apprehending arrest in connection with First Information Report No.0046 of 2024 dated 13th January, 2024, registered at Police Station Bharti Vidhyapith, for offence under Section 420 of the Indian Penal Code (IPC).

3. The application for anticipatory bail filed by the applicant before

the Sessions Court was rejected by an order dated 07th June, 2024, while the applications of some of the co-accused persons were allowed.

4. A perusal of the statement of the informant leading to registration of the FIR and the case diary, as well as material brought to the notice of this Court shows that, according to the informant, the applicant had purchased 3 flats in a particular scheme from the informant, who is a director of a Construction Company. It is stated that although balance amounts pertaining to the 3 flats in question were due, the applicant clandestinely executed further documents selling the 3 flats to third party purchasers and in that process forged possession letter and other such documents. The aforesaid facts came to light in December, 2023, when officials of a particular Bank came to one of the flats to affix a notice, claiming that loan amount taken in respect of the said flat was not repaid and that there was defaults. At this stage, according to the informant, it came to light that the applicant had executed such forged documents.

5. It appears that during the course of investigation the third party purchasers as well as the husband and brother-in-law of the applicant were added as accused persons.

6. The learned counsel for the applicant submits that in the present case, as many as 15 flats were purchased by the applicant from the informant.

There were certain disputes between the informant, who is a director of the Construction Company and flat purchasers pertaining to completion certificate, etc. It was brought to the notice of this Court that huge amounts of about ₹ 3.5 Crores had exchanged hands between the applicant and the Construction Company of which the informant is a director, in respect of the 15 flats. It was submitted that the informant is really concerned with the balance amount payable for the 3 flats in question and therefore, the allegation regarding cheating and alleged forged documents created by the applicant is unsustainable. This Court may consider the present application favourably as the applicant is ready to cooperate with the investigation.

7. On the other hand, the learned APP has produced case diary before this Court and it is emphasized that even when the final documents of purchase regarding the 3 flats in question were to be executed and balance amounts were due from the applicant, she proceeded to execute document for sale in favour of the third parties concerning the aforementioned 3 flats. In the process, possession letters were prepared on which signatures of the informant were forged, so as to give an impression to third party purchasers that such documents were validly executed in their favour by the applicant. It us submitted that this is a serious case of cheating and forgery and since the matter is under investigation and the applicant has not cooperated, this Court may not show indulgence in favour of the applicant. On instructions, the

learned APP specifically submits that the husband and brother-in-law of the applicant have not cooperated with the investigation after being released on bail and that the investigating authorities are contemplating applying for cancellation of bail.

8. The learned counsel appearing for the intervenor (informant) relied upon the documents filed along with the intervention application to impress upon this Court that even on a bare perusal of the signature of the informant on the original registered agreement for sale executed in favour for the applicant would show that the signature of the informant has been forged on a purported possession letter used by the applicant to sell the 3 subject flats in favour of third party purchasers, even when balance amounts were due to be paid to the informant. It is submitted that this is a serious case of cheating, fraud and forgery and that this Court may not show any indulgence to the applicant.

9. This Court has considered the material on record. The documents on record indeed show that there are balance amounts due and payable in respect of the 3 flats in question. This is not even seriously disputed by the applicant. In that light, a bold submission is made that the informant is really concerned with the balance amounts payable and that the allegation of cheating could not be leveled against the applicant. But, the

documents on record show that while balance amounts are still due on the 3 flats in question, the applicant has proceeded to execute registered documents of sale in favour of third party purchasers in respect of very same 3 flats. Annexed to the said registered documents are possession receipts, wherein signature of the informant is shown, signifying that the possession of the 3 flats was handed over to the applicant. It is on the strength of such documents that the applicant has proceeded to execute registered documents of sale in favour of third party purchasers, while balance amounts are still due and payable to the informant.

10. The documents that have surfaced during the course of investigation indicate the seriousness of the allegations against the applicant. The said documents *prima facie* show that the applicant had full knowledge about the balance amount due on the said 3 flats and yet she proceeded to execute registered documents for sale in favour of third parties and in the process, certain documents were annexed, including possession receipts, which *prima facie* appear to be forged and fabricated. No case for grant of anticipatory bail is made out. Hence, the application is dismissed.

11. In view of the anticipatory bail application being dismissed, the intervention application is disposed of.

(MANISH PITALE, J.)