

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

Anticipatory Bail Application No. 1971 of 2024

Praful Chogalal Dave

Age 67 years, Occ. --

R/o. C/13, Dwarkesh Dham,

L. M. Road, Near J. B. C. N. School,

Dahisar West, Mumbai – 400 068.

...Applicant

Vs.

The State of Maharashtra

Through Borivali Police Station, Mumbai.

...Respondent

Mr Fauzan Shaikh i/b. Kamil Sayyed, for the applicant.

Mr Arfan Sait, APP for the respondent/ State.

API Dombale, Borivali Police Station, Mumbai, is present.

Coram: R. N. Laddha, J.

Date: 18 July 2024

P.C.:

By the present application, the applicant seeks pre-arrest bail in connection with CR No.387 of 2024, registered at Borivali Police Station, Mumbai, for the offences punishable under Sections 406, 420, 463, 465, 467, 468 read with 34 of the Indian Penal Code.

2. The prosecution contends that the complainant purchased a shop in Hilton Co-operative Housing Society Limited from Madanlal Trivedi in 2007. Despite repeated requests from the complainant, Madanlal did not execute the conveyance deed. To resolve the dispute,

legal proceedings were initiated in civil court. In 2024, Madanlal allegedly transferred the shop to M/s Mahavir Enterprises after obtaining a no-objection certificate (NOC) from the society. The applicant, who serves as the society's chairman, is accused of issuing this NOC despite the complainant's correspondence urging the society to prevent the shop's transfer.

3. Mr Fauzan Shaikh, the learned Counsel appearing on behalf of the applicant, argues that the applicant is not the recipient of the funds from the co-accused, Madanlal, arising from the sale of the shop. The Society, which is not involved in the ongoing civil proceedings, between the complainant and Madanlal, has not been restrained by any Court order from granting an NOC for the transfer. According to the Society's records, the shop's title vests with the co-accused, Madanlal. The applicant, acting as the society's chairman, issued the NOC on 1 November 2023, following the due process. Mr Shaikh, the learned Counsel, contends that the applicant has been falsely implicated in the present crime. The NOC was provided to Madanlal, who annexed it to the sale agreement. There are no items to be recovered or discovered at the applicant's behest. The applicant is ready and willing to abide by the conditions set by this Court.

4. Mr Arfan Sait, the learned Additional Public Prosecutor representing the respondent/ State, contends that the applicant was aware of the pending litigation between the co-accused and the complainant. Despite this awareness, the applicant issued the NOC,

which led to the transfer of the shop's title. This issuance of NOC has created new rights that may impact the ongoing dispute. Additionally, the building housing the shop has been demolished. The learned APP submits that the relevant documents are yet to be recovered, necessitating the applicant's custody.

5. The perusal of the records indicates that negotiations for the shop's sale took place between the complainant and the co-accused, Madanlal. The complainant transferred the sale consideration to co-accused Madanlal. However, when Madanlal declined to transfer the shop in favour of the complainant, civil proceedings were launched. Notably, the society where the shop is situated is not a party to these proceedings, and there is no *lis pendens* notice or injunction preventing any transfer. *Prima facie*, the applicant has no direct involvement in the sale negotiations, is not a beneficiary of the consideration, and is not a party to the sale agreement. Furthermore, the NOC was issued by the applicant in his capacity as the society chairman, based on the society's records. The entire case hinges on documentary evidence, and appears to be of a civil nature. In these circumstances, this Court is inclined to allow the present application. Hence the following order:

ORDER

- (i) In the event of the applicant's arrest in CR No.387 of 2024, registered at Borivali Police Station, Mumbai, he shall be released on bail on executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned Police Station as and when required.

(iii) The applicant, himself or through any other person, shall not indulge in any activity that would tamper with the evidence or influence the witnesses.

6. Needless to say, the observations made herein are *prima facie* in nature to decide the anticipatory bail application.

7. The present application stands disposed of accordingly.

(R. N. Laddha, J.)