

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Anticipatory Bail Application No.2227 of 2024

Saleha Abuhuraira Khatoon
Khan Alias Fiza Khan,
Age 28 years, Occ: Teacher,
Residing at Flat No.402, 4th Floor,
Aman Niwas, Plot No.15B, 19B, Ulwe,
Wahal, Raigad, Maharashtra 410206 ... Applicant
v/s.

The State of Maharashtra
(Through NRI Sagri Police Station,
Navi Mumbai vide C.R.No.195 of 2022) ... Respondent

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Mr Mithilesh Mishra, i/b. Agastya Desai, for the Applicant.
Mr Nitin B Patil, APP, for Respondent State.
PSI Parkhe, NRI Sagari Police Station, is present.

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Coram : R.N. Laddha, J.
Date : 20 September 2024.

P.C. :

This is an application for pre-arrest bail filed by the applicant, who apprehends arrest in CR No.195 of 2022, registered at NRI Sagari Police Station, Navi Mumbai. The applicant is accused of committing offences punishable under Sections 406, 420 and 465 read with 34 of the Indian Penal Code.

2. It is the case of the prosecution that the first informant and

her husband lived in Nerul until 2009, where they met real estate agent, Abdul Qayyum Shaikh. In December 2017, they decided to move to Ulawe. Abdul Qayyum Shaikh and his mother, Sidika Khan, introduced them to the co-accused Manojkumar Singh, who was constructing a building in Ulawe and promised them a flat. They met Manojkumar Singh; his wife Suman and their manager, the applicant, at Manojkumar's office. Manojkumar detailed the construction of a new seven-storey building at plot no.303, Sector 25-A at Ulawe, and provided information about the building and payment schedule. The informant and her family visited the plot and were offered flat No.504, measuring 727 sq.ft., for consideration of Rs.34,89,600/-. An agreement was made, and Manojkumar promised possession within a year, accepting Rs.10,46,880/- in his bank account. However, Manojkumar and his staff began avoiding the informant's calls and messages, and no progress was made on the project. The informant later discovered another builder's board on the land and learned that the plot did not belong to Manojkumar Singh. Upon confrontation, Manojkumar assured the informant he would return the money. However, he failed to keep his promise, leading to file the present FIR.

3. Mr Mithilesh Mishra, the learned Counsel appearing on

behalf of the applicant, asserts the applicant's innocence. He contends that the applicant is not a beneficiary of the alleged funds. The co-accused, who were the actual beneficiaries and recipients of the money, have been arrested and granted regular bail. The charge sheet has been filed against these co-accused. The applicant is not named in the FIR. Despite the FIR being lodged in 2022, the applicant was neither implicated in the crime nor summoned until 2024. The applicant has cooperated with the investigation by attending the concerned police station. Apart from the bare allegation that the applicant was an employee of the co-accused and present during the alleged transaction, there is no material linking the applicant to the present crime.

4. Mr Nitin Patil, the learned Additional Public Prosecutor representing the respondent/State, submits that the offence is severe. The learned APP expresses concern that if the applicant is granted bail, she may tamper with the evidence or influence the witnesses. However, the learned APP, acknowledges the applicant's cooperation in the investigation and states that her custody is not required.

5. Upon perusing the records, it is evident that the informant's complaint centres on the co-accused's failure to keep his promise.

The present applicant is identified as an employee of the co-accused who is alleged to have received and benefited from the alleged part consideration amount. However, it is acknowledged that the applicant is not the actual beneficiary. Despite the FIR being filed in the year 2022, the applicant was neither implicated in the crime nor summoned until 2024. The applicant has cooperated with the investigation by attending the police station. The investigation is now complete, and a charge sheet has been filed against the co-accused, who have been arrested and released on bail. Furthermore, the prosecution does not seek the applicant's custody. Suitable conditions can be imposed to address the prosecution's concerns about evidence tampering and witness influence. In these circumstances, this Court is inclined to exercise its discretion in favour of the applicant. Hence, the following order.

ORDER

- (i) In the event of the applicant's arrest in connection with CR No.195 of 2022, registered at NRI Sagari Police Station, Navi Mumbai, she shall be released on bail upon 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, herself or through any other person, shall not tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

[R. N. Laddha, J.]