

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

Anticipatory Bail Application No.2395 of 2024

Sunil Triloknath Tiwari

Age: 34 years, Occ: Business,
R/at: Room No.4, Survey No.20,
Marve Road, Hamla Patel Wadi,
Behind Masjid, Malad (West),
Mumbai - 400 095

... Applicant

v/s.

1. The State of Maharashtra
At the instance of Sr. Inspector of
Police, Malvani Police Station, Mumbai

2. Vinod Ramashankar Tiwari,
Age: 31 years, Residing at E/701,
Aakit Sabarbiya Link Road,
Kandivali (West), Mumbai. ... Respondents

Mr Sunny Waskar, a/w. Shamish Marwadi and Ms Harshada Morey, i/b.
Dilip Gupta, for the applicant.

Mr Amit A Palkar, APP, for respondent/ State.

Mr Shubham Mishra, i/b. DK Pandey, for respondent No.2.

**Coram: R.N. Laddha, J.
Date: 28 August 2024**

P.C.:

Leave granted to amend the application to add the first informant as a party respondent. The amendment shall be carried out forthwith. Mr Shubham Mishra waives service of notice on behalf of the newly added respondent. With the consent of the learned Counsel for the parties, the matter is heard finally.

2. This is an application for bail in anticipation of arrest filed by the applicant, who is apprehending arrest in connection with CR No.1103 of 2024, registered at Malvani Police Station, Mumbai, for offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code. The applicant is accused of reselling Room No.1, measuring 11x25 sq. ft., in Patelwadi at Madh, Marve, Malad West, Mumbai, to Lagu Jaiswal in 2019 for Rs.13 lakhs, despite having previously sold it to the informant in 2017 for Rs.7 lakhs.

3. Mr Sunny Waskar, the learned Counsel representing the applicant, argues for the applicant's innocence and highlights an unexplained delay in filing the FIR. He points out that although the informant knew about the sale of premises to Lagu in January 2024, the FIR was only lodged in August 2024, seemingly as a reaction to the ongoing civil disputes. The learned Counsel also claims that the informant and his father have hidden the fact that they run a credit society from which the applicant took a mortgage of Rs.5,00,000/-, and the applicant has been making regular payments to repay this loan. Mr Waskar contends that since the case hinges on documentary evidence held by the investigating agency, the applicant's custody is unnecessary. The investigation is nearly complete, and the applicant is ready and willing to abide by the terms set forth by this Court.

4. Mr Amit Palkar, the learned Additional Public Prosecutor

representing respondent No.1/ State and Mr Shubham Mishra, the learned Counsel appearing for respondent No.2/ the informant, jointly submit that in 2017, the applicant sold the premises to the informant for consideration. However, instead of delivering possession, the applicant resold the premises to Lagu Jaiswal in 2019 for consideration. The learned APP acknowledges that the relevant documents are with the investigating agency. Although the investigation is on the verge of completion and a charge sheet will be filed shortly, the learned APP expresses concerns about granting pre-arrest bail to the applicant, as he may tamper with the evidence or influence the witnesses.

5. Upon perusing the records, it is evident that the applicant and the informant are relatives. The main accusation against the applicant is the creation of third-party rights on the premises, which was allegedly sold to the informant in 2017. Although the informant reported this matter in August 2024, the FIR suggests that he was aware about the purported sale of the premises to Lagu in January 2024. This delay is not explained in the FIR. Notably, the informant's grievance pertains to the non-delivery of possession and the subsequent sale of the premises. However, the records do not show whether the informant approached the civil court by initiating appropriate proceedings. *Prima facie*, the dispute relies on documentary evidence. The learned APP concedes that the relevant documents are with the investigating agency. There is nothing to be recovered or discovered at the applicant's behest. The investigation is almost complete, and a charge sheet will be filed

shortly. Appropriate conditions can be imposed to address the concerns raised by the prosecution about evidence tampering and witness influence. Given these circumstances, the application is allowed in the following terms:

- i) In the event of the applicant's arrest in connection with CR No.1103 of 2024, registered at Malvani Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing two 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 tamper with the evidence or influence the witnesses.

6. The application stands disposed of accordingly.

(R.N. Laddha, J.)