

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

Anticipatory Bail Application No.2396 of 2024

Triloknath Ramchabile Tiwari

Age: 52 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 No.1/ 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 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. By this application, the applicant seeks pre-arrest bail in 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.

3. According to the prosecution, in January 2024, when the informant approached the electricity supplier to change the electric meter in his name, he discovered that in 2019, the applicant sold Room No.1, measuring 11x25 sq. ft., in Patelwadi at Madh, Marve, Malad West, Mumbai, to Lagu Jaiswal despite selling it to the informant in 2017. When the applicant failed to return the consideration of Rs.7 lakhs or deliver the property's possession, the informant registered the present FIR in August 2024.

4. Mr Sunny Waskar, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and contends that the FIR is a retaliatory measure in an ongoing civil dispute between the parties. He highlights an unexplained delay in filing the FIR, as the informant was aware of the premises' sale to Lagu in January 2024 but reported the crime only in August 2024.

Additionally, Mr Waskar points out that the informant and his father have concealed their operation of a credit society from which the applicant borrowed Rs.5,00,000/-, with the applicant making timely loan repayments. The learned Counsel submits that the case relies on documentary evidence already in the custody of the investigating agency, and the applicant's custody is unnecessary. With the investigation is almost complete, the applicant is willing to comply with any Court-imposed conditions.

5. 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, in unison, submit that the informant purchased the premises in 2017, but the applicant failed to transfer its possession. When the informant attempted to transfer the electricity meter to his name, he discovered that the applicant had sold the premises to Lagu in 2019. The learned APP, however, acknowledges the custody of the relevant documents with the investigating agency. Although the investigation is almost complete and the charge sheet is expected to be filed shortly, the learned APP opposes granting anticipatory bail to the applicant, citing concerns that he may tamper with evidence or influence witnesses.

6. After reviewing the records, the applicant and the informant appear to be relatives. The applicant is alleged to have sold a property to a third party, despite it already being sold to the informant in 2017. Notably, the informant only reported the incident in August 2024, despite being aware of the sale since January 2024, leaving the delay unexplained in the FIR. The records suggest that the informant's primary concern is not receiving possession of the premises and its subsequent sale, but it is unclear if he pursued appropriate proceedings before the civil Court. The dispute seems to be based on documentary evidence. The learned APP confirms that the investigating agency possesses the relevant documents, and there is no need for further recovery or discovery from the applicant. With the investigation nearing completion, and the charge sheet is expected to be filed shortly, this Court is inclined to grant bail in anticipation of arrest to the applicant, subject to conditions addressing concerns about evidence tampering and witness influence. Hence, the following order:

ORDER

- 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.

7. The application stands disposed of accordingly.

(R.N. Laddha, J.)