

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.369 OF 2024**

Vishal Ashok Chugera ... Applicant
versus
State of Maharashtra and Anr. ... Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.3469 OF 2023**

Manoj Sayarnath Rai ... Applicant
verus
State of Maharashtra ... Respondent

**WITH
INTERIM APPLICATION NO.364 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.3469 OF 2023**

Girish Navnath Avhad ... Applicant/Intervener
and
Manoj Sayarnath Rai ... Applicant
verus
State of Maharashtra ... Respondent

Mr. Samay S. Pawar for Applicants in ABA 369 of 2024 and 3469 of 2023.
Mr. S.R.Aagarkar, APP for State.
Mr.Dinesh R. Shinde i/by Mr. Siddheshwar N. Biradar for Applicant in IA 364 of 2024.

CORAM: N.J.JAMADAR, J.

DATE : 6 MAY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. These applications are preferred seeking pre-arrest bail in connection with C.R.No.664 of 2023 registered with Nigdi Police Station for the offences

punishable under Sections 406, 409, 420 read with Section 34 of the Indian Penal Code.

3. In ABA No.3469 of 2023, by an order dated 12 December 2023, this Court was persuaded to grant interim bail to the applicant – Manoj S. Rai, opining, inter alia, as under :

“6. Prima facie, it appears that the role attributed to the applicant is that of being an estate agent. An amount of Rs.2,50,000/- was paid by way of commission. Co-accused Vishal was paid a sum of Rs.1,10,00,000/- by way of consideration. Thus, at this stage, the question as to whether the applicant was also a privy to the alleged offences and shared common intention to deceive the first informant warrants investigation. Since the co-accused Vishal Chugera is stated to be absconding, I deem it expedient to grant interim protection to the applicant while directing him to join in the investigation.”

4. When ABA No.369 of 2024 was listed before the Court, by an order dated 12 March 2024, this Court was persuaded to grant interim protection ascribing reasons and also the fact that the applicant had shown willingness to deposit a sum of Rs.55 Lakhs without prejudice to his rights and contentions. Paragraphs 6 to 9 of the said order read as under :

“6. From the perusal of the material on record, it appears that the initial transaction between the parties was that of purchase of shops by the applicant in a building developed by the first informant. Out of the aggregate consideration, the first informant alleges that the applicant had not paid a sum of Rs.45,65,920/-. In lieu of the said balance consideration,

the first informant was induced to the enter into transaction to purchase plot in FireFly Scheme then allegedly being developed by the applicant and to part with consideration of Rs.1,10,00,000/-.

7. The pivotal question that would warrant consideration is whether the intention of the applicant was dishonest since the inception of the transaction or there was failure to perform contract. At this stage, so far as the purchase of four shops by the applicant from the first informant is concerned, it appears that a major part of the consideration was parted with.

8. In the circumstances, when a major part of the consideration was parted with, prima facie, it would be difficult to infer that the intention of the applicant in entering into the transaction with the first informant to purchase the four shops was dishonest since inception. The material on record indicates that subsequently there were a number of transactions between the parties.

9. In the aforesaid view of the matter and in the backdrop of the affidavit of the applicant that he is willing to deposit a sum of Rs.55 Lakhs, without prejudice to the rights and contentions of the applicant, the personal liberty of the applicant can be protected till the matter is heard after providing an effective opportunity to the prosecution and the first informant.”

5. The learned Counsel for the applicants submitted that the applicant – Vishal Chugera has deposited a sum of Rs.55 lakhs before the Court of Judicial Magistrate, First Class. The applicants have also appeared before the Investigating Officer and co-operated with the investigation.

6. Learned APP, on instructions, submitted that the applicants have cooperated with the investigation, and the investigation is almost complete and

chargesheet is likely to be filed. It was fairly submitted that further custodial interrogation of the applicants may not be warranted.

7. Mr. Shinde, learned Counsel for the first informant – Intervener, resisted the prayer for bail. It was submitted that a substantial part of the amount, of which the first informant has been defrauded, is yet to be recovered. Therefore, the applicants do not deserve pre-arrest bail.

8. While releasing the applicants on interim bail, this Court has recorded reasons which justified the protection of their liberty. The Court had, inter alia, noted that a part of the consideration was already paid and that had a bearing on the determination as to whether the intention of the applicants was dishonest since the inception of the transaction. As the Investigating agency does not require further custodial interrogation of the applicants, and for the reasons which weighed with this Court in granting interim protection, I am impelled to make the orders of interim bail absolute.

9. Hence, the following order :

ORDER

- (i) The Applications stand allowed.
- (ii) The orders of interim bail are made absolute on the terms and conditions incorporated therein.
- (iii) The applicants shall henceforth appear before the Investigating

Officer as and when directed.

(iv) In the event chargesheet is lodged, the applicants shall regularly attend the proceedings before the jurisdictional Court.

(v) The amount of Rs.55 Lakhs deposited by the Applicant – Vishal Chugera shall abide the outcome of the proceedings arising out of C.R.No.664 of 2023 before the learned Judicial Magistrate, First Class.

(vi) In view of the disposal of the Applications, Interim Application No.364 of 2024 also stands disposed.

(N.J.JAMADAR, J.)