



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

944 ANTICIPATORY BAIL APPLICATION NO. 1874 OF 2023

Rajendra Motilal Daga
VERSUS
The State Of Maharashtra

...
Advocate for Applicant : Mr. Barlota Ambar S.
APP for Respondents-State: Mr. R. S. Wani
Advocate for Assist to APP : Mr. M. V. Navandar

...
WITH
CRIMINAL APPLICATION NO. 751 OF 2024
IN ABA/1874/2023

....

CORAM : ARUN R. PEDNEKER, J.

Dated : March 12, 2025.

PER COURT :-

1. Criminal Application No.751 of 2024 is filed for Assist to learned APP. Said application is allowed and disposed of.
2. Heard learned counsel for the applicant, the learned APP for the respondent-State, and the learned Counsel for Assist to learned APP.
3. The applicant is apprehending arrest in connection with FIR No.509/2023, registered at MIDC CIDCO Police Station, District Aurangabad, for the offences punishable under sections 406, 420, 465, 467, 468, 471 of the Indian Penal Code.
4. This Court, by order dated 08/11/2023, granted interim protection to the applicant, considering the fact that the registered sale deed specifically mentions the vendor having delivered vacant possession of the property to the purchaser.

5. The allegation against the applicant in the FIR is that he sold the property mentioned in the sale deed with an assurance that he would give vacant possession of the premises. The sale deed was executed by the applicant in favor of the husband of the informant for a consideration of Rs.1,80,00,000/-. Clauses 7 and 8 of the sale deed clearly indicate that, at the relevant time, there was a tenant on the property, and the applicant had assured that vacant possession would be handed over to the husband of the informant.

6. Even after the demise of the husband of the informant possession of the property was not delivered. Prior to the informant's husband demise, a cheque of Rs.1,75,00,000/- was issued by the applicant, which was not deposited due to his death. Thereafter, another cheque for Rs.2,00,00,000/- was given to the informant with a clear understanding that it should not be deposited due to insufficient funds in the applicant's account. The learned Counsel for the informant submits that if an assurance for the clearance of the cheque is given, the informant would accept the amount.

7. The learned APP points out that there are antecedents against the applicant. It is alleged that he took Rs.50,00,000/-, out of which Rs.20,00,000/- was for the sale consideration and Rs.30,00,000/- was to be paid to the tenant for vacating the premises. On the applicant's failure to

meet these commitments, an FIR bearing No. 79/2012 was registered against him at Pune Police Station.

8. The learned Counsel for the applicant submits that the transaction in the present case dates back to 2011 and that the property was sold only after vacant possession was obtained.

9. Considering the substantial time lapse since 2011 and the fact that the civil suit to implement the clauses in the sale deed would *prima facie* be barred, and further, as the matter falls within civil jurisdiction, the interim protection granted by order dated 08/11/2023 is confirmed.

10. In view of the above, the application is allowed in the following terms: -

i] In the event the applicant is arrested in connection with FIR No.509/2023, registered at MIDC CIDCO Police Station, District Aurangabad, for the offences punishable under sections 406, 420, 465, 467, 468, 471 of the Indian Penal Code, he shall be released on bail on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

ii] The applicant shall attend the police station as and when called by the police.

iii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iv] The applicant shall co-operate with the investigation and also

in the proceedings before the trial Court.

11. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

12 It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

13. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.