IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1799 OF 2024

Akbarali Akramal Syed ..... Applicant

VERSUS

State of Maharashtra & Ors. ..... Respondents

Mr. Vishal M. Deshmukh for the Applicant.

Mr. Amit A. Palkar, A.P.P. for the State.

Ms. Trupti M. Khamkar for the Respondent No.2.

CORAM : RAJESH S. PATIL, J.

DATE : 11th FEBRUARY, 2025

P.C. :-

This application is filed for seeking pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with FIR No. 0340 registered with M.I.D.C. Police Station, Brihan Mumbai Shahar for the offence punishable under Sections 420, 406, 465 and 468 of the Indian Penal Code, 1860.

2. It is the case of the prosecution that the present

applicant/accused is an estate agent who had taken money from the informant of around Rs.23,40,000/-, so as to handover a room. Though the entire consideration was paid by the first informant, the present accused who had shown her room and in whose office she had been to pay the money, has later refused to give her the said room. Neither did he returned back the money which he had taken from the first informant. Hence, has lodged the FIR.

3. Today before me, it has been submitted by the learned counsel appearing for the applicant that the present applicant has no role to play as the entire money has taken by one Mr.Madan Mansoori and it was only Mr.Madan Mansoori who was suppose to give the flat to the applicant. The applicant was working in the whole transaction for receiving brokerage of 1%. He has further referred to page no.35 of this anticipatory bail application wherein a photocopy of a nameplate of the informant has been shown on the transit flat. It is submitted that the said transit flat was allotted to the informant by the HDIL Builder. Therefore, the

custody of the present applicant is not required and the present anticipatory bail application should be allowed.

4. On behalf of the respondent no.2/informant, it has been submitted that the entire payment was received by the present applicant who was responsible for showing the different flats to the informant. After taking cheques from the informant, the applicant used to fill in the name of the different parties in order to honour those cheques and thereafter it is understood that the applicant used to withdrew those monies. Hence the present anticipatory bail application should be rejected since the applicant has cheated many prospective buyers in that locality.

5. On behalf of the learned A.P.P., it is submitted that the applicant atleast has cheated three more people in the similar fashion. Photocopies of the receipts has been tendered before me which shows that the applicant has acknowledged the receipt of payment from the present informant.

6. In my view, if the applicant is a mere broker and not a vendor, there was no reason for the applicant to issue payment receipts to the first informant. Issuance of this kind of payment receipts shows that the applicant himself has received the entire consideration amount. Taking into account that the first informant is not the only person to whom the applicant has lured and has taken away her monies, neither the flat nor the amount has been returned back to the informant.

7. In such a situation, it is necessary that the police should investigate the matter further by taking the custody of the applicant and find out the money trail in the present transaction and how many more such allotment has been done by the applicant.

8. Accordingly, the present **anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]