

MHCC020173812022



**IN THE COURT OF SESSIONS FOR GREATER BOMBAY**  
**(Presiding over by K. P. Shrikhande)**

**ANTICIPATORY BAIL APPLICATION No.2845 OF 2022**

**Applicant :** **Mr. Nazir Ismail Haji Mansoori**  
Age :- 45 Years, Occ: Business,  
Having address at Roshan House,  
Flat No.131,132, First Floor 35<sup>th</sup> road  
Khar, Khar west Mumbai- 400052.  
**Also having address At-**  
Sherif Manzil, 35<sup>th</sup> road, Khar West,  
Mumbai- 400 052.

**- Versus -**

**Respondent:** **STATE OF MAHARASHTRA**  
vide its C.R. No.392 of 2022 registered at  
Bandra police station, Mumbai.

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Shri R. M. Pande, advocate for the applicant.  
Shri Mehboob Shaikh, advocate for intervener.  
Shri Ajit Chavan, APP for respondent/State.  
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**ORDER BELOW EXH.1**  
**(Dated 24<sup>th</sup> January, 2023)**

This is an application moved by applicant-accused Nazir Ismail Haji Mansoori under section 438 of Cr.P.C. for grant of anticipatory bail. According to him, Bandra police station has registered a crime No.392/2022 on 04/04/2022 for the offence punishable under sections 406 and 420 of the IPC on the report of Farooq Ibrahim Batliwala. According to him, he committed no offence; however, the complainant lodged a false report and gave

the colour as criminal to the civil dispute and therefore, he has an apprehension of his arrest in the said crime and as such, he filed the present application. The prosecution has filed the reply at Exh.2 and resisted the application.

2] As per the case of the prosecution, for the purpose of purchasing shop No.3 at ground floor situated at Big Boss, Sharif Manzil, Khar West, Mumbai, the complainant had given the amount of Rs.20 lakhs to the applicant, and accordingly the applicant executed on 05/10/2019 the sale agreement, affidavit, letter of possession and agreed to deliver the possession in the month of December, 2019. However, because of not giving the possession by the said shop, when the complainant went to the applicant, the applicant disclosed him that the said shop has already been sold out to Parvez in the month of November, 2019, and thereupon asking him to return the said amount, the applicant didn't return it.

3] It is the further case of the prosecution that the applicant sold out to complainant's daughter-in-law a shop No.2 at ground floor situated on plot No.136, in front of Khar Masjid, Khar West, Mumbai for the amount of Rs.14 lakhs on 18/09/2018. However, the construction of the said shop being found illegal, the Municipal Corporation demolished it in the month of February, 2019 and thereafter the applicant sold out her another shop No.16 at ground floor situated on plot No.132, Roshan house, Khar West, Mumbai for the amount of Rs.16,50,000/-. The complainant was running the said shop on behalf of his daughter-in-law; however, in the month of

September, 2019; one person by name, Akram Khan put his lock on the said shop and told the complainant that he has purchased the said shop from the applicant. Later on he came to know that the said shop was also sold out to even Ayyub Kasail 8 years ago. Thus, according to the prosecution, the applicant have cheated the complainant and her daughter-in-law and also committed the breach of trust by receiving the total amount of Rs.50,50,000/-

4] The learned counsel for the applicant submits that the possession of the shop premises sold out was already delivered to the complainant. He submits that the complainant purchased the shop premises from the accused for the consideration of Rs.22 lakhs; however, because of incomplete work of the interior, the possession couldn't be handed over by applicant. The rent to the complainant for the said period has been given to the complainant, and then the possession of the said shop was handed over, but it was given for the security purpose.

5] The learned counsel for the applicant further submits that the shop premises sold out to the daughter-in-law of the complainant was demolished by BMC due to the illegal construction; however, again by making the construction of the said shop, it was handed over to the daughter-in-law of the complainant. He further submits that the applicant had paid the amount of Rs.50,000/- to the daughter-in-law of the complainant on 24/09/2021, amount of Rs.1,00,000/- to her on 12/01/2022 by RTGS and then again he paid the amount of Rs.1,50,000/- by the demand draft on 20/12/2022.

6] It is apparent from the statements made in the application as well as from the submission of the counsel for the applicant that the applicant has not disputing the transaction entered into with the complainant and his daughter-in-law. The applicant placed nothing on record in support of his submission that the applicant has paid the rent to the complainant. The applicant has not disputed the fact of demolition of the shop which was sold out to daughter-in-law of the complainant. According to the applicant, he has paid the amount of Rs.3,00,000/- at three occasions to the daughter-in-law of the complainant, but he not explained the purpose paying the said amount and towards what transaction he paid the said amount. The prosecution case suggests that the applicant has received the amount of Rs.20 lakhs from the complainant towards the sale price of shop No.3; but didn't deliver the possession. It is stated in the application and also submitted by the learned counsel for the applicant that possession of the shop was given to the complainant for 'security purpose'. The case set out by the applicant that possession of the shop was delivered for the security purpose is incomprehensible. The applicant has not explained the security of what. He has not disputed execution of the documents i.e. agreement of sale of shop No.3, affidavit and letter of possession.

7] The prosecution case shows that the shop sold out to the daughter-in-law of the complainant for the consideration of Rs.16,50,000/- was sold out to Akram Khan. So, the case is projected by the prosecution clearly constitute the offence punishable under section 420 of the IPC. Investigation is at

initial stage. The investigating officer served the notice under section 41A of the Cr.P.C; however; the applicant is not appearing before the police to co-operate in the investigation. Interrogation of the applicant is appearing necessary to facilitate the further investigation. I find no merits in the submission of the counsel for the applicant that a false report is lodged by the complainant. No case is made out for grant of anticipatory bail. Hence, the application needs to be rejected. In the result, I proceed to pass the following order:-

**ORDER**

The Anticipatory Bail Application No.2845 of 2022 is rejected.



**Date.24.01.2023**

Date of Dictation : 24.01.2023

Date of typing : 24.01.2023

Date of signature : 24.01.2023

**(K. P. Shrikhande)**  
**Additional Sessions Judge**  
**Gr. Mumbai, C.R.10**

**“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER”**

<b>24.01.2023 at 05.45 p.m. UPLOAD DATE AND TIME</b>	<b>(Mr. S. V. AMBEKAR) NAME OF STENOGRAPHER</b>
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<b>Name of the Judge</b>	<b>HHJ SHRI K. P. SHRIKHANDE (COURT ROOM NO.10)</b>
<b>Date of pronouncement of judgment/order</b>	<b>24.01.2023</b>
<b>Judgment/order signed by P.O. on</b>	<b>24.01.2023</b>
<b>Judgment/order uploaded on</b>	<b>24.01.2023</b>