

MHCC020171182022

**IN THE COURT OF SESSIONS FOR GREATER BOMBAY****AT MUMBAI****ANTICIPATORY BAIL APPLICATION NO. 2798 OF 2022****(CNR NO.: MHCC02-017118-2022)****Rahul Chatur Godariya**

Age:- 28 years, Occ.:- Service

Address :- Room No. 29,

Chawl No. 2, Punjabi Colony,

G.T.B. Nagar, Sion Koliwada,

Mumbai No.:- 400 037

...Applicant/Accused**V/s.****The State of Maharashtra,**

(At the instance of Antop Hill

Police Station vide C.R.No.360/2022)

...Respondent/State.**Appearance:-**

Ld. Advocate Krishna Goghikar for the applicant/accused.

Ld. A.P.P. Veena Shelar for the State/respondent.

Ld. Advocate K. C. Tiwari for the intervenor.

**CORAM : H.H. THE ADDL. SESSIONS JUDGE
ANAND PANDURANG KANADE (C.R.60)****DATE : 30.03.2023.****ORDER**

1. Vide present application under Section 438 of Code of Criminal Procedure, the applicant requested to release him on anticipatory bail in Crime No. 360 of 2022 registered at Antop Hill Police Station for offences punishable under Sections 420, 465, 467, 468 and 471 r/w. 34 of the Indian Penal Code.

2. **The prosecution case in brief is as under:-**

The complainant, Nazmul Abdul Aziz Shaikh is a resident of Room No. 50, Lalmitti, Kismat Nagar, Bangalipura, Antop Hill, Mumbai. He is a tailor by profession. On 14.12.2022, he lodged report with Antop Hill Police Station. He contended that in the year 2019, the co-accused Abdul Qayum Zamindar had come to his shop and assured him to allot one residential flat from the agent of M.H.A.D.A. Thereafter, the co-accused Abdul Qayum Zamindar obtained various amounts in installments from the complainant. During that transaction, co-accused Abdul Qayum Zamindar introduced another accused Kapil Koli and the present applicant/accused who were alleged officers of M.H.A.D.A. It is mentioned in the report that the co-accused Abdul Qayum Zamindar has prepared bogus allotment letter, allotment receipts and receipt of H.D.F.C. Bank and he forwarded those documents to the complainant through the present applicant/accused. In all, the complainant had paid amount of Rs. 17 lakhs to the present applicant/accused and the other co-accused. The applicant/accused along with the other co-accused cheated the complainant and also prepared forged documents regarding the allotment of flat. Hence, the complainant lodged report against the applicant/accused with Antop Hill Police Station. On that basis, Crime No. 360 of 2022 has been registered.

3. The applicant has apprehension of his arrest in the said crime. Hence, he has filed the present application for pre-arrest bail. He raised grounds that he has been falsely implicated in the present case. He has not personally met the complainant and the allegations that the applicant had sent allotment letter to the complainant on Whatsapp is concocted and afterthought story. The transaction that has taken place

was between the complainant and Abdul Qayum and Kapil Koli. The amount of Rs. 45,000/- was transferred in the account of the applicant but, the said amount was transferred by Abdul Qayum and the same amount was taken by him by cash. The applicant had no any transaction with the complainant. No receipt of any payment was issued by the applicant/accused to the complainant. His custodial interrogation is not required. He has no criminal antecedents. He is ready to co-operate the investigation agency. Hence, this application.

4. The Ld. A.P.P. and the Investigating Officer filed their say at Exh – 2 and resisted the bail application. It is submitted that the applicant/accused along with other co-accused cheated the complainant to tune of Rs. 17 lakhs. The applicant/accused forwarded the forged allotment letter and possession receipt and receipt of H.D.F.C. Bank to the complainant and to that effect, the investigation is going on. If the applicant/accused is enlarged on bail, there is possibility of pressurizing the prosecution witnesses. The applicant/accused has not co-operated the investigation agency. The duped amount is yet to be recovered. The investigation of present crime is going on. Hence, it is prayed to reject the bail application. In the present case, the complainant has also filed his Say at Exh – 4 and prayed to reject the bail application.

5. Heard both the sides. Perused papers on record. It reveals that the complainant has paid an amount of Rs. 40,500/- to the applicant/accused through Phone Pay. It also reveals that the applicant/accused has issued 2 receipts to the complainant mentioning that he has received the amount of Rs. 4 lakhs as a part payment against the M.H.A.D.A. Flat No. 1315-B. The applicant/accused has introduced himself to the complainant as a M.H.A.D.A. Officer. After

going through the papers on record, it reveals that the investigation is going on against the present applicant. From the report of the investigation officer, it reveals that the applicant has not co-operated the investigation agency. It also reveals that there is involvement of the applicant in the commission of crime. Considering the amount involved in the crime, nature and gravity of crime, on-going investigation and the involvement of the applicant/accused in the crime, I am of view that it is not a fit case to grant pre-arrest bail to the applicant/accused. In the result, I pass the following order.

:ORDER:

The Anticipatory Bail Application No. 2798 of 2022 is rejected.



(Anand P. Kanade)
Addl. Sessions Judge
Sessions Court,
Mumbai. C.R. 60

Dictated on : 30.03.2023
Transcribed on : 31.03.2023
Date of sign : 01.04.2023

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

**01/04/2023 , 4.55 p.m.
UPLOAD DATE AND TIME**

**Mr. Prasad S. Pednekar
NAME OF STENOGRAPHER**

Name of the Judge (with Court Room No.)	HHJ Anand P. Kanade, (C.R.No.60) Addl. Sessions Judge., City Civil & Sessions Court, Mumbai
Date of pronouncement of /Order	30.03.2023
Order signed by P.O. on	01.04.2023
Order uploaded on	01.04.2023