

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.
(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.160 of 2022

CNR No. MHNS010003872022



Udayan Vishnu Kshemakalyani

Age : 61 years, Occ : Business

R/o : Plot No.2, Ashwin Partment,

Ashwin Nagar, CIDCO, Nashik.

... Applicant/Accused.

V/S

State of Maharashtra

Through – P.I. Ambad Police

Station (C.R. No.I-56/2022)

... Respondent/State.

Appearance :

Ld. Adv. Shri. Akshay P. Kalantri for Applicant/Accused.

Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.

Shri. Sandip R. Pawar, P.S.I. (I.O.) present.

ORDER BELOW EXH. No.1
(Delivered on 09th February, 2022)

1. This is an application under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in C. R. No. I-56/2021 registered with the respondent Ambad Police Station for an offence punishable under Sections 420, 406, 467, 468, 471 & 120-B r/w 34 of the Indian Penal Code.

2. Perusal of the F.I.R. reflects that one Sonali Sahebrao Pawar was having an account in the AXIS Bank, where she got

acquainted with the daughter of complainant. The said Sonali Pawar asked the complainant and her daughter that she can arrange for shops and plots for them, if they invest the amount and after sale of those plots and shops whatever the profit will come, they will share it. Plots and shops were of the defaulters, who had obtained the loan from the Bank. The complainant paid time to time the sum of Rs.72,18,600/- to the said Sonali Pawar. Thereafter, the said Sonali Pawar showed them the plot bearing Survey No.58/4, plot No.22 of the lay-out. City Survey No.2189 admeasuring 265.00 Sq. Mtrs. Said Sonali Pawar said that the said plot belongs one Mahesh Bhalchandra Kapadnis and accordingly a sale-deed is required to be executed. Therefore, the associate of the said Sonali Pawar, one Ganesh Atre engaged the applicant to give public notice and call for objections, if any. Thereafter, the public notice was given in the newspaper and within stipulated period, despite receiving objection, the applicant issued false certificate that he did not receive any objection and thereafter also identified the seller and buyer. The seller was not the person and he was personified as Mahesh Kapadnis. The complainant gave three Cheques bearing No.024248, 024249 and 024250 to the said Sonali Pawar. So also the said Sonali Pawar purchased the TATA Motors Company Hairier vehicle bearing No.MH-15/HG-7958 in the name of the complainant and was using the same and thereafter did not pay the installment as agreed. Therefore, in this way, the said Sonali Pawar and the other accused persons and the applicant have cheated the complainant. Thereafter, she lodged the written complaint with the Police, which was inquired and the Crime was registered.

3. It is the case of the applicant that, he is an Advocate practicing at Nashik since last 35 years. He is 61 years of age. The applicant did not receive the objection within stipulated period and it was received after the sale-deed was executed. The Advocate after verifying the documents gave the identification before the Sub-Registrar, Nashik. The custodial interrogation of the applicant is not necessary. Therefore, prayed to allow the application on any terms.

4. Respondent filed their say vide Exh.7 and objected to allow the application. It is their case that the offence is serious in nature. Despite objection by the original owner, the applicant issued certificate that he did not receive the objection and he had falsely identified and therefore committed the offence. Therefore, prayed to reject the application.

5. Heard Ld. Advocate for applicant, Ld. A.P.P. for State and the I.O. in person. Gone through the police-papers produced for inspection by the I.O. So also gone through the authorities relied by Ld. Advocate for the applicant.

6. Upon hearing and going through the material placed on record, what can be gathered is that, the role of the applicant is that despite receipt of objection to the public notice for title verification, still the applicant issued a certificate that he did not receive any objection. However, perusal of the police-papers, one will find that the objection was received by the applicant after the sale-deed was executed and not within the period mentioned in the public notice. As far as, the identification to the vendor and the purchaser is concerned, it is the duty of the applicant being a Lawyer to identify the parties upon going

through their documents. The applicant can not be held responsible for the forged documents shown by the parties to him. Therefore, this Court finds that custodial interrogation of this applicant is not necessary. By imposing certain conditions, the application can be allowed. With this observation, this Court proceeds to pass the following order.

ORDER

1. Criminal Bail Application No.160/2022 is allowed.
2. In the event of arrest, applicant Udayan Vishnu Kshemakalyani be released on bail on his executing a personal bond of Rs.15,000/- (Rupees Fifteen Thousand Only), with one solvent surety in like amount to the satisfaction of the I.O. on following conditions :-
 - i] Applicant Udayan Vishnu Kshemakalyani to appear before the I.O. of the Respondent/Police Station on 14th and 21st of February, 2022 between 11.00 a.m. to 01.00 p.m. and Co-operate the I.O. and thereafter as and when call by the I.O. under prior written intimation..
3. Inform concerned Respondent/Police Station accordingly.
4. In the above terms, the Criminal Bail Application No.160/2022 stands disposed off accordingly.

Place : Nashik.
Date : 09/02/2022

(M. H. Shaikh)
Additional Sessions Judge, Nashik.