

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, NASHIK,
AT – NASHIK.

(Presided over by Mr. M. H. Shaikh)

Criminal Bail Application No.272 of 2022

CNR No.MHNS010008312022



1. **Sanjay Bajirao Pagare**
Age : 57 years, Occ : Agriculture

2. **Sau. Shubhangi Sanjay Pagare**
Age : 47 years, Occ : Housewife

R/o : Vaishnavi apartment, ChampaNagri,
Canal Road, Jail-Road, Nashik-Road,
Nashik . .. Applicants/Accused

V/S

State of Maharashtra
Through – PI, Upnagar
Police Station (C.R. No.I-43/2022) .. Respondent/State

Appearance :

Ld. Adv. Shri. Avinash S. Bhosale for Applicants/Accused.
Ld. A.P.P. Shri. Sachin Gorwadkar for Respondent/State.
Shri. Aajinath Batule, P.S.I. (I.O.) present.

ORDER BELOW EXH. No.1
(Delivered on 04th March, 2022)

1. This is an application filed under Section 438 of Criminal Procedure Code for grant of pre-arrest bail in C. R. No.I-43/2022 registered with the respondent Upnagar Police Station for an offence punishable under Sections 420, 406, 504 & 506 R/W 34 of the Indian Penal Code.

2. Perusal of the F.I.R. reflects that the crime came to be registered on the direction given by the Ld. J.M.F.C. under Section 156(3) Cr.P.C. Applicants own a Flat bearing No.5 situated in Vaishnavi Apartment and more particularly described in para-2 of the application. They agreed to sell the said Flat to the complainant for a consideration of Rs.25,00,000/-. At the time of agreement to sell, an amount of Rs.2,15,000/- was paid by cheque and cash. As there was a loan on the said Flat, therefore it was agreed that the complainant will pay the installments and thereafter the Sale-deed will be executed. Possession was parted to the complainant. However, thereafter the applicants told the complainant that after renovation of the Flat, it will be handover. Therefore, the complainant shifted in Flat No.8 in the same Building. The said Flat No.8 was owned by co-accused, who is the relative of these applicants. The leave and license agreement was executed by the complainant alongwith co-accused. Thereafter it seems that the applicants refused to execute the Sale-deed and sold the Flat No.5 to the third person. Complainant felt cheated.

3. It is the case of the applicants that they are innocent and falsely implicated in this case. The Civil matter is given a colour of Criminal case. The complainant did not like the Flat and he himself shifted in Flat No.8. Nothing is to be recovered or discovered at the instance of the applicants. Applicants are ready to co-operate to I.O. in the investigation. Therefore, prayed to allow the application.

4. Respondent filed their say vide Exh.12 and objected on the ground that, investigation is at a primary stage. The amount is to be recovered from the applicants. The agreement is to be recovered.

Custodial interrogation of the applicants is necessary with the Police. Therefore, prayed to reject the application.

5. In this matter, complainant also intervened and filed the written submission vide Exh.8 and strongly objected on the ground that, the applicants have cheated him and the co-accused is not allowing the complainant to remove his belongings from the Flat No.8 and they have misappropriated the articles and the gold ornaments, which are lying in the Flat. Therefore, prayed to reject the application.

6. Heard Ld. Advocate for the applicants, Ld. A.P.P. for the State, Ld. Advocate for the Complainant and the I.O. Gone through the entire material on record.

7. Upon hearing and going through the material placed on record, what can be gathered is that an agreement to sale was executed as regards Flat No.5 belonging to the applicants. The applicants have accepted Rs.2,15,000/- from the complainant and the complainant had paid some installments to the Bank about the Flat No.5. Thereafter, on the pretext of renovation of the Flat No.5, the applicants asked the complainant to shift in Flat No.8 belonging to the co-accused, who is the relative. Thereafter, it seems that the leave and license agreement was executed by the co-accused with the complainant. The applicants, thereafter did not cancel the agreement and did not repay the amount taken by them as an advance. So also the installments amount paid by the complainant. Therefore, prima-facie it seems that they have cheated the complainant. The applicants have also sold-out the Flat No.5 to third person. This act itself shows that the complainant felt cheated. Now, the applicants and the co-

accused are not allowing the complainant to take belonging from the Flat No.8. In such a scenario, this court finds that custodial interrogation of these applicants with the Police is of utmost necessary. Certain documents are to be confronted to the applicants during the investigation. Recovery is to be made, which will be at the instance of the applicants. Therefore, considering the facts and circumstances of this case, this Court finds that this is not a fit case to grant pre-arrest bail of the applicants. In the result, the following order.

ORDER

Criminal Bail Application No.272/2022 stands rejected and disposed off accordingly.

Place : Nashik.

(M. H. Shaikh)

Date : 04/03/2022

Additional Sessions Judge, Nashik.