

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 970 OF 2012

Shantilal Virji Thakkar & Ors.	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep S. Patil, Advocate for the applicants.
Mr. S.S. Pednekar, APP for the State.

CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 6th April, 2015.

P.C.

This Application is moved by the applicants for anticipatory bail under section 438 of the Cr. P.C. The applicants/accused are the developer/builder and partners of Raj Homes S.V. Developers. It is a partnership firm, which is engaged in the development of land and sale of flats. The applicants are prosecuted for the offences under sections 415, 420, 405, 406, 465, 468, 471, 471, 475, 476, 503, 504, 506(2) r/w. 34 of the Indian Penal Code in C.R. No. 9 of 2012 registered at Kharghar Police Station, Navi Mumbai. One Mr Subhash Goyal, who has booked the flat with the applicants/accused gave information to the police. There are many other flat owners who have booked the flats with these applicants and they paid nearly 90% of the consideration amount in the year 2007 to 2009, however, the applicants/accused did not complete the construction as promised. They had represented that they would

complete the construction of flats and handover the possession during the stipulated period i.e. till 2010. However, till 2012 only promises were given and therefore, a criminal case was lodged.

2. This anticipatory bail is pending before this Court since 2012. Interim relief was granted by an order dated 11th October, 2012 by this Court. It was agreed by the applicants/accused from time to time before the Court that they would construct the building within a short period, however, till today the construction of building is not complete. It is pointed out by the learned counsel for both the sides that on 20th December, 2014, one Shankarlal V. Thakkar-applicant no. 2 has filed an affidavit on behalf of applicant nos. 1 to 5 that they would complete the entire construction of the building project and would make an application for O.C. to CIDCO within a period of 8 months. They also undertook that they may pay the pending amount of compensation as per the Deed of Settlement executed with the clients to the respective flat owners on or before 31st January, 2015.

3. The learned counsel for the applicants/accused produced the photographs and submitted that there is progress in the construction and applicants/accused are trying their level best to complete the construction of the building. He further submitted that quarterly compensation is paid to the flat owners as per the Deed of Settlement.

4. Learned APP while opposing the Application produced the photographs and submitted that though there is a progress, it is at snail speed and therefore, this Application is not to be disposed of.

5. In view of the undertaking given by applicant no. 2, this Application need not to be kept pending, as it is the Application of 2012. The undertaking given by applicant no. 2 that they would complete the construction till August 2015 is accepted. Some grace period of one and half month, i.e. till 15th October, 2015 is given to the applicants/accused. The learned counsel for the applicants/accused submitted that all the applicants/accused shall file their undertaking with the same contents before the police, as they all abide by the statement. In view of the undertaking, I confirm the order of interim bail dated 11th October, 2012 with the same P.R. Bond and surety. The applicants shall attend the concerned police station as and when called by the Investigating officer. In the event of non-compliance of this order, liberty is granted to the complainant to take appropriate legal steps.

6. The Application stands disposed of on above terms.

(MRS. MRIDULA BHATKAR, J.)