

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1679 OF 2015**

Akrutiben Ripal Shah ..Applicant
v/s.

The Union Territory of Dadra & Nagar
Haveli Administration. Silvassa ..Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1680 OF 2015**

Ripal Girish Shah ..Applicant
v/s.

The Union Territory of Dadra & Nagar
Haveli Administration. Silvassa ..Respondent

Mr. N. R. Kothari for the applicants.
Smt. P. H. Kontharia for Union Territory Of Dadar & Nagar Haveli.
(Both matters.)
Mrs. R. V. Neuton, APP for the State.
Mrs. Veera Shinde, APP for the State. (ABA 1680/2015)

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : NOVEMBER 26, 2015.

P.C.

. The applicants herein have sought anticipatory bail apprehending their arrest in C.R.No.187/2015 registered with Silvassa Police Station for the offences punishable under Section 420 read with 34 of the IPC.

2. Heard Mr. Kothari, the learned counsel for the applicants,

and the learned APP for the State.

3. Learned counsel for the applicants submits that applicants and the complainant had entered into an agreement for sale of certain immovable property. He further submitted that the applicants had terminated the said agreements by notice dated 29/7/2015 and had called upon the complainant to receive the money within 10 days from the receipt of the notice. He further submitted that the complainant had filed a civil suit before Civil Court, Vadodara which has been withdrawn and a fresh suit has been filed and thereafter te criminal complaint came to be filed before Silvassa police station. He has submitted that the dispute is essentially of civil nature and the present applicants are not required for custodial interrogation.

4. The learned APP for the State has submitted that the complaint prima facie discloses ingredients of cheating. She has further submitted that application for anticipatory bail filed by the applicants was dismissed and there was no interim order in favour of the applicants, despite which failed to report to the Investigating officer. She has submitted that having failed to co-operate with the investigation, the applicants are not entitled for the reliefs.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicant and the learned APP for the State. The records prima facie reveal that the applicants and the complainant had entered into three different agreements for sale of immovable properties situated at Vadodara. In terms of the said agreement the applicants had received the earnest money. The records reveal that by notice dated 29/7/2015 the applicants had terminated the said agreements and had called upon the complainant to receive the earnest money. The applicants thereafter sold some open plots to Manya Jagwani, Muskan Tanwani, Mehak Mulchandani.

6. The complainant therefore lodged a complaint on 12/9/2015 alleging that the applicants had played a fraud, committed breach of trust and an offence of cheating. It is to be noted that the complainant has already filed a Civil Suit for the specific performance of the contract.

7. The complaint is filed after filing of the Civil Suit, which prima facie gives an indication that an attempt has been made to give criminal colour to a dispute which is essentially of civil nature. The nature of allegations levelled against the applicant do not justify custodial interrogation. Moreover, the applicants are permanent

resident of Vadodara State and have roots in the society. There is no possibility of the applicants absconding. Therefore, in my considered view, the applicants are entitled for bail.

8. Hence, the anticipatory bail applications are granted on the following terms.

i) In the event of the arrest of the applicants in Crime No.187/2015 registered with Silvassa Police Station , the applicants be released on furnishing bail bonds of Rs.25,000/- (Rupees Twenty-five Thousand Only) each with one or two solvent sureties each in the like amount, to the satisfaction of the learned Sessions Judge, Silvassa.

ii) The applicants shall report to the Investigating Officer, initially for a period of 4 days from 10 a.m. to 1 p.m., and thereafter as and when required by the Investigating Officer for the purpose of interrogation.

(ANUJA PRABHUDESSAI, J.)