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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.228 OF 2016
WITH
CRIMINAL APPLICATION 210 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.228 OF 2016

Rahul M. Timbadia	 Applicant
V/s.	
The State of Maharashtra	 Respondent
and	
Dr. Mrs. K.Lathika	.. Intervener.

Mr. Sanjog Parab a/w Mr. Mohan Rao a/w Mr. Nirav Barot, i/by Maneksha & Sethna, for the Applicant.
Ms. R. M. Gadhvi, APP for the Respondent State.
Mr. Pradeep Havnur, for the intervener.

CORAM : A. M. BADAR, J.

DATE : 27th JUNE, 2016.

P.C. :

1. The applicant/accused, in Crime No.218 of 2015, for the offence punishable under Section 380, 454, 457, 427 read with 34 of the Indian Penal Code, registered with police station Panvel City, District: Rigad, by this application is seeking pre-arrest bail.
2. Heard the learned counsel for the applicant, the learned

counsel appearing for the informant and the learned APP for the State.

3. The learned counsel for informant by pointing out the facts of F.I.R. has contended that an agreement was entered into between present applicant as well as the informant way back on 19.4.1994. He further argued that the possession of Block No.201 was handed over to the informant on 17.1.2006 and ultimately agreement was registered on 4.1.2007. The learned counsel further argued that there was no change in permanent address of the informant. However, the entire building was razed even without notice to the informant. Now applicant is indulged in extortion tactics and belongings of informant are lost. Therefore, in the submission of the learned counsel for informant, no case for pre-arrest bail is made out.

4. The learned APP also opposed the application by contending that recovery is to be made.

5. The perusal of the F.I.R. goes to show that present applicant had allotted block bearing room 201 to informant for consideration of Rs.4.92 lacs. The project was located at Mauje Shirdhon, survey No.154(1) and 162(3) of Panvel. According to informant, possession was delivered to her on 17.1.2006. However, when on 19.4.2015, she had been to her block, it was found that the entire building was demolished and the premises were in the shape of an open land having booking office

of Prioviso Builder and Developer. In the F.I.R. the informant alleged that she has been cheated and theft is committed in her dwelling house wherein her valuable articles were lost. Accordingly crime in question is registered.

6. It is the stand of applicant that because of heavy rains vertical cracks were developed and building become inhabitable. As such all purchasers except three members agreed to take alternate places or refund of money with interest. The informant is one amongst those three persons. According to applicant, possession was never given as no occupation certificate was issued nor society was formed.

7. Be that as it may, in the duly sworn affidavit of the applicant, it is stated that the applicant had offered current market value of the flat in dispute amounting to Rs.17 lacs or equivalent area in this project at the same place for settling the dispute. It is argued that area of 3000 sq. feet is reserved in the building which came up on the site for accommodating those old allottees who are desirous of having block at the same place.

8. Considering the bonafides shown by the present applicant as well as the fact that even as per version of the informant, the site in question has been turned into an open ground on 19.4.2015, the custodial interrogation of the present applicant at this stage is not warranted. All other aspects will have to be taken care at time of trial. Therefore,

the following order.

Order

- I) The application is allowed.
 - II) In the event of arrest of applicant, in above crime, he be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- and on his furnishing surety in the like amount.
 - III) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.
 - IV) The applicant shall attend the concerned police station on 03.07.2016 and 10.07.2016 in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.
 - V) The applicant shall not tamper with the prosecution evidence in any manner.
9. In view of disposal of main application, pending applications, if any are disposed of.

[A. M. BADAR, J.]