

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.431 OF 2016

Sanjay Yashwant Sawant	... Applicant
vs.	
The State of Maharashtra	... Respondent

Ms. Sonal Parab i/b. Mr. Rajeev Sawant & Associates, for the Applicant.

Mrs. S.S. Kaushik, APP for Respondent – State.

Mr. K.N. Dinde (PSI), Mahim police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **11th MARCH, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 420 read with 34 of the Indian Penal Code in C.R. No. 409 of 2015 registered with Mahim police station, Mumbai.

2. It is the case of the prosecution that the complainant read one advertisement in respect of “*Shree Sai Samarth Prime Project*”, Umroli, Tal.Panvel, Dist.Raigad. The complainant and his neighbours contacted the applicant/accused who posed as a builder. He showed

the site of the construction. On the representation made by the applicant/accused, the complainant and his 3-4 neighbours purchased one flat each of 456 sq.ft. The amount of consideration was fixed as Rs. 8,18,500/-. Thereafter, the complainant and all others paid Rs. 11,000/- in the name of "*Pabi Construction & Infrastructure Pvt. Ltd.*". Then, another cheque of Rs. 4,92,480/- was paid in January, 2012. However, no construction started. When the complainant and his neighbours inquired about the same, evasive answers were given by the applicant/accused and his associates. Thereafter, the co-accused Chaya Patil informed the complainant and told them that she is the business partner of the applicant/accused and financier of the project and she took responsibility of the re-payment of money. However, no money was given to the complainant. Therefore the complaint is filed.

3. The learned counsel for the applicant/accused submitted that the applicant/accused was not concerned with the Pabi Construction as he works only as a commission agent and he was entitled for the commission only. She further submitted that the amount of Rs. 1 lac is already refunded to three persons who booked the flats.

4. The learned prosecutor while opposing the application submitted that, the applicant/accused did not act as a commission agent but he is the builder and he represented that he had launched this project and collected money from the persons and duped them. Hence, the custodial interrogation of the applicant/accused is necessary in this case.

5. Perused the first information report. Heard both the learned counsel. Money was collected from the complainant and other persons but neither construction is started nor money of the complainant and his neighbours is refunded to them. In view of this, *prima facie* it is a case of cheating. Therefore, custodial interrogation of the applicant/accused is necessary for effective interrogation. Therefore, I am not inclined to grant pre arrest bail.

6. Hence, the anticipatory bail application stands rejected.

(MRS.MRIDULA BHATKAR, J.)