

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

ANTICIPATORY BAIL APPLICATION NO.680 OF 2016

Shri.Ramesh S. Jain & Anr. ... **Applicants**

V/s.

The State of Maharashtra ... **Respondent**

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Mr.Sandesh D. Patil i/b. Mr.Chintan Y. Shah, Advocate for the Applicant.

Mr.S.H.Yadav, APP for the Respondent/State.

Mr.D.K.Chandankar, API, Kasarvadavli Police Station present.

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CORAM : P. N. DESHMUKH J.

DATED : 9th JUNE 2016.

P.C.

1. Heard the learned counsel for the parties. Both the applicants herein sought pre-arrest bail in Crime No.326 of 2015 registered with Kasarvadavli Police Station, Thane for the offence punishable under Sections 406, 420 read with 34 of the Indian Penal Code.

2. The learned counsel for the applicants has submitted that the applicants are falsely implicated by Rupali Vishwakarma wife of deceased Sanjay Vishwakarma, who after her marriage with Sanjay was not residing with her mother-in-law Dharmadevi Vishwakarma for some reason and after applicant purchased Flat

No.1 situated on Ground Floor in Building No.3, Devdarshan CHS, Dongri Pada, Kasarvadavli, Thane, after demise of Sanjay Vishwakarma. Rupali has initiated civil proceedings with reference to said sale transaction claiming her share in the property.

3. The learned Additional Public Prosecutor has opposed the application on the ground that there is sufficient material against the applicants and applicants during the course of investigation has not made available original sale deed in respect of the said flat.

4. Perused the documents filed with the affidavit which reveals that the applicants through their advocate had issued the public notice before purchasing said flat No.1 in Devdarshan Co-operative Housing Society, Kasarvadavli, Thane, on 03/08/2013 thereby bringing it to the notice of public at large that Smt.Dharmadevi Vishwakarma-mother of deceased Sanjay Vishwakarma declaring herself to be the only legal heir and successor of her son, has agreed to sell the property being Flat No.1 to the applicants etc. After issuance of such public notice, agreement of sale came to be entered on 10/12/2014 between Dharmadevi Vishwakarma at one part and present applicants, who are inter se related and are joint-purchasers of said flat. The sale deed also mentions the schedule of payment made by applicant to

seller/vendor. Dharmadevi has also stated on affidavit that her son Sanjay-husband of complainant Rupali died on 12/09/2010 i.e. before executing the sale deed.

5. From the documents referred, as aforesaid, it appears that there is no element of cheating established involving the applicants. Admittedly, applicants appears to have, after verifying the title of the property and by giving public notice in the newspaper, came in a possession of flat on payment of fixed consideration by executing a registered sale deed.

6. In the background of above stated facts I find much substance that complainant Rupali, who is stated to be residing separately from Dharmadevi after her marriage with deceased Sanjay, since said marriage was not accepted by Dharmadevi, after the sale transaction as above, has lodged her report. Admittedly, her claim over the suit property is pending before the competent Court on her initiating civil proceeding to that effect. Having considering aforesaid stated facts interim bail granted on 15/04/2016 is liable to be confirmed on same terms and conditions except modifying the condition of applicants attending the Investigating Officer on every Tuesday between 10.00 a.m. to 12.00 noon to the effect that the applicant shall attend as and when called by Investigating Officer.

(P. N. DESHMUKH J.)