

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1030 OF 2016

Mr. Madan Shantaram Kolambekar & Ors.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

.....

Mr. R.R.Paramare, Advocate for the Applicants.
Mr. N.B.Patil, APP for the Respondent/State.

....

CORAM : N.W.SAMBRE, J.

DATED : 7th December, 2016.

P.C.

1 The applicants are seeking pre-arrest bail in Crime No.62 of 2016 for the offence punishable under Sections 420, 34 of the IPC.

2 The learned counsel for the applicants has tendered two Demand Drafts amounting to Rs.12 Lakhs drawn in favour of the complainant so as to demonstrate their bonafides. It is claimed that applicants intend to return principal amount that has been received by them towards booking amount of a tenement to be constructed on Plot No.3, Phase-2, Mouje Taloja, Sector 19, New Bombay.

3 In the above referred background while trying to make out case for bail, the learned counsel for applicants urged that applicants title to the property in question and the applicants intention to transfer interest in the property referred (Supra) would be subject to contingent contract was very much disclosed to the applicants in an agreement. According to him, since the contract was not materialised with original

owner, development agreement was not taken to its logical end. He would then submit that on the similar lines another Crime No.50 of 2015 is registered in which the applicants are already released on pre-arrest bail.

4 The learned APP has strenuously opposed the claim on the ground that applicant were not having title over the property in question the day on which the agreement was entered into with the complainant.

5 Perused the investigation papers.

6 It appears that up till now the applicants have paid an amount of Rs.9 lakhs and today have tendered two demand drafts in favour of the complainant for an amount of Rs.12 Lakhs towards the refund of principal amount. This is without prejudice to the right of complainant to pursue Negotiable Instruments Act.

7 The agreement entered into between the complainant and the applicant speaks of contingent agreement.

8 In the above referred background, criminal motive as has attributed cannot be inferred to the detriments of the applicants.

9 In the event of arrest, the applicants shall be released on their executing PR Bond in the sum of Rs.50,000/- each with one or two sureties in the like amount. They shall attend the Investigating Officer from 20th to 22nd December, 2016 from 10 a.m. to 12 noon and thereafter as and when called. They shall not tamper with the prosecution evidence and/or influence the prosecution witnesses.

10 The application stands disposed of as allowed.

(N.W.SAMBRE, J.)