

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.915 OF 2015

Shirish Rangarao Chavan & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.1040 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO.915 OF 2015**

Indu Dharma Kekane & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.1051 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO.915 OF 2015**

Vishal Laxman Subhedar & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.150 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.915 OF 2015**

Arun Mahadev Narsale	...Intervenor
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IN THE MATTER BETWEEN

Shirish Kumar Rangarao Chavan & Ors.	...Applicants
V/s.	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO.181 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.915 OF 2015**

Adesh Thanekar

...Intervenor

IN THE MATTER BETWEEN

Shirish Kumar Rangarao Chavan & Ors.
V/s.

...Applicants

The State of Maharashtra

...Respondent

Mr.V.V. Purwant for the Applicant.

Smt.Anita Wakchaure for the Applicant in Application No.1040 of 2015.

Mr.Rohan Barage for the Applicant in Application No.1051 of 2015 and Application No.181 of 2016

Smt.Varsha Vaidya for the Applicant in Application No.150 of 2016.

Ms.S.S. Kaushik, APP for Respondent-State.

Mr.Amrut Shamrao Udmale, Police Constable 3152, Vashi Police Station, Navi Mumbai.

CORAM : N. W. SAMBRE, J.

DATE : 28th NOVEMBER, 2016.

P.C.

1. The applicant is seeking pre arrest bail in Crime No. I-231 of 2012 registered with the Vashi Police Station, Navi Mumbai

for the offences punishable under Sections 420, 406 read with 34 of the Indian Penal Code.

2. It is not in dispute that there are two other crimes with similar allegations for some different project, registered against the applicants in which they were arrested and released on regular bail.

3. The prosecution story as appears against applicant is that applicants accepted the booking amount for sale of tenament from the prospective buyers. However, without honouring the same, misappropriated the amount and thereby practiced fraud.

4. In the above background the learned counsel for the applicant submits that apart from the fact that in other two crimes the applicant was already released on regular bail, he is co-operating with the investigation and the applicant has already settled the claims of about more than 100 claimants out of total three crimes. Hence custodial interrogation of the applicant is not called for. He assures this Court that the applicant shall settle all the claims in near future. In addition, submission is made that applicant No.2 wife of applicant No.1 and Applicant No.3 and 4 are not directly involved in the crime in question and as such the Court

may consider their case independent of the claim of the Applicant No.1.

5. The learned APP who is assisted by the learned counsel for the complainant and the claimants would urge that the applicant enjoyed ad-interim protection from the Court for quite a long time under the pretext of settling the claim of the various persons who have booked tenaments on consideration. It is brought to my notice that the Applicant No.2 and other co-accused have participated in the crime in question by accepting the consideration. It is also brought to my notice that though sufficient period was given at the disposal of the applicants, upon a promise made by them before this Court, the applicants have not honoured the commitment of settling the claims and as such rejection of the application is sought.

6. What could be gathered from the record is the offence in question came to be registered on 23rd June 2012. It is for last four years the applicant has bought time either from the authority, the prospective purchaser, and this Court for settling the claims of bonafide purchasers or prospective purchaser. There is sufficient material on the record to infer that all the applicants in a calculated manner has accepted the booking amount from the prospective

customers, however, have neither repaid the said amount nor provided tenaments for which the amounts of consideration is accepted.

7. Though it is brought to my notice that it taken into custody, the applicant will not be in position to settle the claim. However, it is worth to observe here that since 2012 i.e registration of the crime till date the applicant was able to settle the claims of the few customers. However, majority of them claims remained unattended in spite of period of more than four years. This Court hardly notices bonafide attempts on the part of the applicant to settle the claim. The indulgence shown by this Court by appointing Mediator, granting ad-interim protection in favour of the applicant remain futile as the issue of settlement was not taken to its logical end.

8. The act of the applicants has rather disturbed the entire financial budget of the complainants and other persons who have booked tenament with them and have parted with the consideration.

9. The offence has serious effect over the society and

social and financial living of the persons who have booked the tenaments.

10. Looking in the light of the above observations, in my opinion no equity deserves to be on the part of the applicant. The application deserves to be rejected.

(N. W. SAMBRE, J.)