

FARAD CONTINUATION SHEET No.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1326 OF 2015
WITH
CRIMINAL APPLICATION NO.1056 OF 2015

Shri. Abhishek Ramesh Vyas and anr.

...Applicants.

vs.

The State of Maharashtra.

...Respondent.

Mr.M.K.Kocharekar i/by R,A.Kale for the Applicant.

Ms. Aarti Deshmukh for the Intervener.

Mrs. P.P.Shinde, APP. for Respondent State.

Mr.Sandeep Badgujar, API from EOW present.

CORAM : A.S.GADKARI, J.

DATE : 04th January, 2016

P.C.

The applicants are apprehending arrest in CR No.211/2015 dated 17.7.2015 registered with Amboli Police Station, Mumbai under Section 420, 406 read with 34 of the I.P.C.

2) The complainant Jatin Chandulal Mer in his first information report has alleged that the applicants are directors of A & A Shelter Pvt.Ltd. In pursuance of the advertisement published by the applicants, the

complainant through the agent of applicants booked a flat admeasuring 650 sq.ft. and paid an amount of Rs.30.00 lacs to the applicants for the same. That, though he paid an amount of Rs.30.00 lacs to the applicants, the applicants did not give the said flat to him till date and have committed the criminal breach of trust.

3) After registration of the first information report, the applicants moved an application before the Trial Court for seeking pre-arrest bail. The learned Trial Court by its order dated 26.8.2015 was pleased to reject the said application. The applicants thereafter preferred the present application before this court. The present application came up for hearing before this court on 4.9.2015 when applicants expressed their willingness to settle the matter with all the investors concerned with the project involved in the present crime and in view of the same, the complainant was impleaded as respondent No.2. As the applicants had expressed their desire to settle the matter they were granted interim protection by this court.

4) The record discloses that the applicants thereafter filed an undertaking in the form of schedule of

payment dated 22.9.2015 before this court which is at Page 49 to the present application. In the said undertaking, the applicants have given the list of 21 investors and the amounts received from the said persons. They had undertaken to repay the amounts in instalments. The first instalment was to be paid on or before 15.10.2015 and the last instalment was to be paid to the complainant on or before 15.3.2016. As the applicants made default in making the payment to the complainant, this court on earlier occasion extended the period for making the payment to the complainant. Today, the learned APP on instructions submitted that the applicants have committed breach of the undertaking and have not paid the amount. Mr. Kocharekar, the learned counsel appearing for the applicants concedes the said position.

5) In view of the above, I am of the opinion that the applicants only with a view to get the benefit of the pre-arrest bail gave the undertaking dated 22.9.2015 before this Court. Since the applicants have failed to honour the undertaking given to this Court, the discretionary relief to be granted to the applicants by way of pre-arrest bail

cannot be exercised in their favour. The custodial interrogation of the applicants is necessary to unearth the truth behind the crime as it prima facie appears that the applicants in well designed manner have duped several persons for crores of rupees. The applicants therefore do not deserve any sympathy from this Court. The interim relief granted by order dated 4.9.2015 is hereby vacated and consequently the present application is accordingly dismissed.

6) As the Anticipatory Bail Application No.1326 of 2015 is dismissed, the Criminal Application No.1056/2015 for intervention does not survive and the same is disposed of accordingly.

(A.S. GADKARI, J.)