

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1328 OF 2015
WITH
CRIMINAL APPLICATION NO.957 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.

Mr.S.J. Lavate 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.160/2015 dated 22.5.2015 registered with Amboli Police Station, Mumbai under Section 420, 406 read with 34 of the I.P.C.

2) The complainant Smt. Rani Suresh Telreja in her first information report has stated that she was in search of flat/house in Mumbai. She attended one exhibition wherein she came in contact with sales girls namely Darshana Jagtap and Sangmitra Kandalgaonkar. She thereafter decided to purchase two flats and advanced an amount of

Rs.27,00,000/- as token money by way of cheque drawn on State Bank of Trivankore, Kandivali Branch. The complainant thereafter received a provisional booking letter from the said Smt. Sangmitra Kandalgaonkar for and on behalf of A & A Group of Companies. The complainant was thereafter shown the plot of Krupasagar Co-op. Society. The complainant liked the said place and decided to purchase two flats. She thereafter paid an amount of Rs.1.47 to the Directors of A & A Shelter by way of cheques and cash. She has further stated that though he paid an amount of Rs.1.47 crores to the applicants, the applicants did not give the said flats to her 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 102 to the present application. In the said undertaking, the applicants have given the two lists of 31 and 21 investors of Kripasagar and Shivneri (Dindoshi) buildings respectively 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 occasions 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, learned counsel appearing for the applicants concedes to 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 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 by way of pre-arrest bail. 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.1328 of 2015 is dismissed, the Criminal Application No. 957/2015 for intervention does not survive and the same is dispose of accordingly.

(A.S. GADKARI, J.)