

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1408 OF 2015

Vishram Shivram Sawant and Others ... Applicants

vs.

The State of Maharashtra ... Respondent

Mr. M.K. Kocharekar a/w. Mr. Y.B. Dandekar i/b. Mr. S.N.
Biradar, for the Applicants.

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

Mr. J.R. Kamble (API), E.O.W.- Palghar present.

Mr. R.K. Singh i/b. Mr. S.R. Phanse, for the complainant.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **1st APRIL, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicants/accused are facing charges for the offence punishable under Section 420 read with 34 of the Indian Penal Code in C.R. No. I-155 of 2015 registered with Arnala police station, Dist. Palghar. The offence is registered at the instance of one Maheshkumar Rohila on 26th August, 2015.

2. It is the case of the prosecution that the complainant wanted to purchase a flat. In the year 2012 he came across one project launched by Ionic “Ionic Realty (Eco City) Pvt. Ltd.” at Vasai.

Therefore, on 16th January, 2012 he booked a flat and paid the amount of Rs. 2,00,000/- by cheque as token. Thereafter on demand, he paid Rs. 75,000/- by cheque dated 22nd February, 2012. The applicants/accused are the Directors of the Ionic Realty (Eco City) Pvt. Ltd. It was promised that the flat will be ready till 2014 and the possession will be handed over to the complainant. However, it was not done so. It is the case of the complainant that in the year 2014, he came to know that the applicants/accused have assigned the development rights of the said project to M/s. Crystal Homecon Pvt. Limited without giving any instructions to the complainant and the other flat purchasers. Thereafter the applicants/accused held one meeting of all the purchasers and informed them that they would have to pay Rs. 1 lac more for fresh booking and the area of the flat will be reduced. It is the case of the prosecution that along with complainant many other persons have booked flats with Ionic Realty (Eco City) Pvt. Ltd and they are nearly 1400 persons. It is his case that in February, 2015 he found board of “Viva Constructions” on the site of the company. It is the case of the complainant that till today no flat was allotted to him he was cheated at the hands of the applicants/accused. Hence, this offence was registered.

3. The learned counsel for the applicants/accused has submitted the applicants/accused are ready to repay Rs. 1,00,000/- to the complainant Maheshkumar Rohila till 5th April, 2016.

4. The learned prosecutor oppose the application on the ground that there are nearly 1400 purchasers like complainant who have invested their money in this project.

5. Perused the first information report and other documents. In view of the above submissions and as the applicants/accused are ready to pay Rs. 1 lac to the complainant till 5th April, 2016, I am inclined to grant pre arrest bail to the applicants/accused on the following terms and conditions:

- a) In the event of arrest, the applicants/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 25,000/- each with one or two solvent sureties in the like amount;
- b) The applicants shall not tamper with the evidence;
- c) The applicants shall cooperate with Investigating Officer and shall attend office of E.O.W. at Palghar on 6th April, 2016 between 4.00 to 6.00 pm.

d) If the applicants/accused failed to pay the amount, the complainant may approach this Court for cancellation of bail.

6. In view of the above the anticipatory bail application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)