

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1410 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-157 of 2015 registered with Arnala police station, Dist. Palghar. The offence is registered at the instance of one Prashant Nathekar on 27th 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 person Sushilkumar Gupta who had booked one flat in the year 2011 in the project launched by “Ionic Realty (Eco City) Pvt. Ltd.” at Vasai. He found that the booking of the said flat was in the name of Sushilkumar Gupta. He decided to purchase the said flat from Gupta. Therefore, on 1st February, 2012 he paid Rs. 2,75,000/- by cheque to Gupta and Sushilkumar Gupta handed over the allotment letter to the complainant. Thereafter the complainant got entered his name for the said flat of Ionic Realty (Eco City) Pvt. Ltd and they issued allotment letter in his name. The applicants/accused Nos. 1 and 3 are the directors and NO. 4 is the manager of the said company. On demand he further paid Rs. 1 lac to Ionic Realty (Eco City) Pvt. Ltd. However, thereafter no construction took place and subsequently he found that 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, in June, 2015 he paid Rs. 57,292/- by cheque directly to M/s. Crystal Homecon Pvt. Limited. 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 concerned only with the amount of Rs. 57,292/- which was paid directly to M/s. Crystal Homecon Pvt. Limited by the complainant and they are ready to return the same on or before 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. 57,292/- 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.)