

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 647 OF 2017**

Neelam Ashok Shelke	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. S. V. Kotwal i/b Mr. Prasad B. Kulkarni for the Applicant

Mr. Deepak Thakare, A.P.P for the Respondent-State

Police Naik Mr. S. A. Mate from Kothrud Police Station, Pune, is present

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 18th APRIL, 2017

P.C.

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 599 of 2016 registered with the Kothrud Police Station, Pune, for the alleged offences punishable under Sections 420 r/w 34 of the Indian Penal Code and under Section 13 (1) (2) (3) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act.

3. According to the complainant, he had purchased flat No. 603 from Milind Buddhisagar, a builder, in 2013. The said flat, being flat No. 603 was purchased for a sum of Rs. 1.10 lakhs by a registered Agreement to Sell dated 27th August, 2013. It is the complainant's case, that the sanction to construct, was only up to four floors and that the co-accused Milind Buddhisagar had not obtained sanction to construct additional two floors. According to the complainant, despite the same, co-accused Milind Buddhisagar entered into an Agreement to Sell with the complainant, pursuant to which, the complainant paid a sum of Rs. 97,90,000/- approximately to Milind Buddhisagar. As per the Agreement, the possession of the said flat was to be handed over in 2014. As no sanction was there to construct additional two floors, at the time when the agreement was entered into, the complainant lodged the aforesaid complaint as against the applicant and three others.

4. Learned Counsel for the applicant does not dispute the fact that when the Agreement was entered into with the complainant, co-accused Milind Buddhisagar had not obtained sanction for construction of

additional two floors. However, according to the learned Counsel, the complainant was aware of the said fact. Learned Counsel for the applicant submitted that infact co-accused Milind Buddhisagar has paid a sum of Rs. 68,000/- to the complainant prior to the registration of the FIR and has even filed a suit for cancellation of the agreement. He submits that as far as the applicant is concerned, she was only an employee of co-accused Milind Buddhisagar to whom the Power of Attorney was given to register the Agreement. He submitted that the applicant is a lady and that only as an employee, she entered into an Agreement with the complainant, on behalf of co-accused Milind Buddhisagar.

5. Learned A.P.P does not dispute the fact that the applicant is only an employee and the role played by her.

6. Perused the papers. Admittedly, the applicant is an employee of co-accused Milind Buddhisagar. The applicant was given a Power of Attorney by co-accused Milind Buddhisagar to have the documents registered i.e. the Agreement to Sell flat No. 603 on behalf of Milind Buddhisagar. There are no other allegations against the applicant.

Considering the aforesaid, the application is allowed and the applicant is granted pre-arrest bail, on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.10,000/- with one or two sureties in the like amount ;
- (ii) The applicant shall report to the Investigating Officer of the concerned Police Station as and when called;
- (iii) The applicant shall not tamper with the evidence or attempt to influence the complainant, witnesses or any person concerned with the case.
- (iv) The applicant shall inform her latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

7. The application is accordingly disposed of.
8. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.