

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 648 OF 2017**

Milind A. Buddhisagar	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 649 OF 2017**

Smita Milind Buddhisagar	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. S. Mohite i/b Mr. Prasad B. Kulkarni for the Applicants

Mr. Prashant Jadhav, A.P.P for the Respondent-State

Mr. Nitin P. Dalvi for the Intervener

CORAM : REVATI MOHITE DERE, J.
TUESDAY, 13th JUNE, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By these applications, the applicants seek 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 Section 13(1)(2)(3) of the Maharashtra Ownership of Flats Act.

3. Learned Counsel for the applicants submitted that the applicants have been falsely implicated in the said case. He submits that the complainant himself, is a Civil Engineer and was aware that the plans were sanctioned only upto the 4th floor and that they had an additional TDR to construct two more floors. He submitted that it is under these circumstances, that the complainant invested in the said flat and entered into an agreement. He further submitted that thereafter, the applicants had filed a Civil Suit and had sought cancellation of the Agreement to Sell and had paid the complainant an amount of Rs. 76,67,000/-. He submits that according to the complainant, he had incurred a loss of about Rs. 1,06,00,000/-. Learned Counsel submits that pursuant to an order passed by this Court, the applicants have, without prejudice, further deposited a sum of Rs. 29,63,163/-. Learned Counsel for the applicants submits that there is interse dispute between the applicants and the Architect, Mr. Ranade. He further submits that infact, Ranade has also filed a complaint as against the complainant alleging, that the complainant had fabricated certain records and documents with regard to the said flat.

4. Learned A.P.P, on instructions, states that the applicant-Smita Buddhisagar has attended the concerned Police Station as directed and that her custody is not required.

5. Mr. Dalvi, learned Counsel for the intervener opposed the application. He submits that the applicants had misrepresented the complainant and had without obtaining sanction, constructed the building upto the 6th floor, when infact, the applicants had permission to construct only upto the 4th floor. He further submits that merely because the amounts are deposited by the applicants, does not mean that the custody of the applicants is not required. He further submits that certain documents which were submitted to the HDFC Bank have also been forged.

6. Perused the papers. It appears that the complainant-a Civil Engineer, had entered into an agreement to purchase a flat on the 6th floor of the building constructed by the applicants. Admittedly, the applicants had obtained sanction to construct only upto the 4th floor. It is also not in dispute, that the applicants had constructed 4th floors and that the slab of the 5th floor though laid, was demolished by the Corporation. It is also not in

dispute, that there is a civil Suit which is pending between the parties. It also appears that an amount of Rs. 76 lakhs odd was paid to the complainant, who in turn, has deposited the same in the HDFC Bank. The applicants have also deposited a sum of Rs. 29,63,000/- in the Registry of this Court. It also appears that there is a dispute between the complainant and the Architect Ranade and that co-accused Ranade had sent a letter to the police alleging that the complainant had fabricated certain records and had forged his signature. It is also not in dispute that the documents are in the custody of the police.

7. Considering the aforesaid, the custodial interrogation of the applicants is not required. The application is allowed and the applicants are granted anticipatory bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount ;
- (ii) The applicants shall report to the Investigating Officer of the concerned Police Station as and when called;

- (iii) The applicants shall not contact the complainant, witnesses or any person concerned with the case.
 - (iv) The applicants shall inform their latest places of residence and mobile contact numbers 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;
 - (v) The applicants to cooperate with the conduct of the trial.
8. The applications are accordingly disposed of.
9. It is made clear that the observations made herein are *prima facie*, for the purpose of deciding these applications.
10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.