

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 1958 OF 2016

Krushnakant Rakesh Dubey

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sachin B. Chandan Advocate for Applicant.

Mr. R. M. Pethe APP for the State.

Mr. Samadhan Nagare, API Kalyan Taluka Police Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 13th FEBRUARY, 2017.

PC :

1) Heard. This is an application under section 439 of the Code of Criminal Procedure, 1973. Applicant herein is arrested on 22/02/2016 in crime no. 20 of 2016 registered at Kalyan Taluka Police Station. Investigation is completed and charge-sheet is filed against present applicant for offence punishable under sections 420, 406 of the Indian Penal Code.

2) It is the case of the prosecution that on 19/01/2016, Ravindra Kavankar lodged a report at the police station that he and his friends had seen advertisement in the paper in respect of 'Budget Homes'. They had been to the

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site. There they met present applicant who has posed as builder/developer of project 'Laxmi Projects and Developers'. He had informed the said customers that construction is in progress and that they would have to pay Rs. 2 Lacs towards said tenement. On 13/03/2013 and on 11/04/2013 and thereafter, complainant had deposited an amount of Rs. 1 Lac with the applicant. He was given a notarised document by the applicant. Said customers persuaded the applicant on various occasions and they were assured that they would give rooms within 7 months. The said customers continued to visit the site on several occasions, however, they could not find any construction in progress. Applicant was evading to answer their calls and it was at that stage, that the complainant and others realised that they have been cheated by the applicant. There are about 45 people who have booked the said tenements with Laxmi Developers. The total amount is about 45,87,000/-.

3) The learned counsel for the applicant submits that he had bonafide intentions of constructing the rooms and allotted the same in favour of the customers, however, Balaram Fasale with whom he had entered into the development agreement was demanding more money and therefore, he could not commence with construction as Balaram was creating nuisance. He has

relied upon the statement of brother of Balaram namely Pandurang. In fact, Pandurang had also executed development agreement along with Balaram. Pandurang continues to be in possession of the said plot. Even if Balaram had expired, there were no efforts made by present applicant to persuade Pandurang nor he has filed any civil suit for specific performance. Applicant happens to be original native of Uttar Pradesh and this was his first project.

4) The learned APP submits that applicant had not obtained all requisite sanctions to commence with the construction and therefore, he could not carry out the construction.

5) The learned counsel for the applicant submits that he had all sanctions in place and that this was his first project which got delayed due to inevitable reasons.

6) This would not be a proper explanation for showing bonafides. It is apparent on the face of record that 45 customers have been cheated by extending false promise. Applicant has no assets to be attached. The learned APP rightly submits that in the event that applicant is enlarged, he would not be available for trial.

7) Taking into consideration the material collected in the course of

investigation and the submissions advanced across the bar, this Court is of the opinion that applicant does not deserve to be enlarged on bail.

8) Application stands rejected.

(SMT. SADHANA S. JADHAV, J.)