IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1734 OF 2017

RAKESH TECKCHAND SAKHALA)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Hrishikesh Chavan, Advocate for the Applicant.

Ms.Jyoti Lohokare, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 3rd OCTOBER 2017

P.C. :

1 This is an application for releasing the applicant / accused on bail, in the event of his arrest in Crime No.I-07 of 2017 registered with Nalasopara Police Station, Thane, for offences punishable under Sections 420, 465, 467, 468 and 472 of the Indian Penal Code along with Sections 3, 4, 5 and 8 of the Maharashtra Ownership of Flats Act, 1963.

2 Heard the learned advocate appearing for the applicant / accused. He vehemently argued that, infact, First Informant Vijay Daulatram Dargad is an investor in several projects undertaken by the applicant / accused Rakesh Sakhala, who is a builder. The transaction between the First Informant and the applicant / accused was that if the First Informant wanted to purchase the apartments actually, then he was suppose to pay the market price thereof or else it was agreed that both parties will share profits of apartments booked by the First Informant / investor Vijay Dargad. My attention is drawn to the First Information Report (FIR) lodged by Vijay Dargad in order to demonstrate that the real transaction was that of investment.

3 I have carefully considered the submissions so advanced. Averments of the FIR are to the effect that First Informant Vijay Dargad had booked Apartment No.101 in Jay Apartment scheme said to be constructed by the applicant / accused in March 2013 and on 16th March 2013, a Deed came to

be registered in favour of the First Informant and his wife. It is averred that an amount of Rs.16.89 Lakh was paid for booking this flat.

4 The FIR further contains an averment that the applicant / accused has started construction of another scheme named as Jai Ram Hiest in which the First Informant booked Apartment Nos.408 and 608 by paying an amount of Rs.20.77 Lakh and odd as well as Rs.19.90 Lakh and odd. The First Informant averred that allotment letter in respect of both these apartments was issued in his favour by the applicant / accused.

5 The FIR further contains an averment that the First Informant booked another Apartment bearing no.401 in a scheme named Rameshwar Hiest started by the applicant / accused by paying an amount of Rs.14 Lakh.

6 The First Informant averred that he found one Mayur Waghela residing in Flat No.608. Flat No.101 was allotted by the

applicant / accused to one Vinod Bharambal by changing its number as 104. Flat No.608 was found to be sold to John D'Costa. The First Informant averred that the applicant / accused had cancelled the booking of Flat No.401 and towards part payment of consideration already paid by the First Informant, he refunded amount of Rs.10,000/-. In this way, according to the FIR, he has been cheated to the tune of Rs.40,79,000/- by the applicant / accused.

7 Upon being asked as to whether this amount of Rs.40,79,000/- was refunded to the First Informant by now, or whether the applicant / accused is intending to transfer apartments in the name of the First Informant, the learned advocate submitted that Conveyance Deeds can be executed only when entire market price is paid. The fact remains that as on date, amount of Rs.40,79,000/- which is paid by the First Informant, is not yet refunded to him. Prima facie, it is seen that by not honouring the commitment made by the applicant / accused, who is a builder, the First Informant is cheated.

8 In this view of the matter, no case for grant of anticipatory bail is made out.

9 The application is, therefore, rejected.

(A. M. BADAR, J.)