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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 61 OF 2018

Manoj Narshi Bhanushali

... Applicant

V/s.

The State of Maharashtra & Ors.

... Respondents

Mr. Sanjeev Kadam a/w Rahul Pandey, Siddharth Karpe, Vinduprakash Pandey i/b Omprakash Pandey a/w Anita Vasani for applicant.
Mr. R.M. Pethe, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 19th JANUARY 2018.

P.C.:

1] The applicant is apprehending arrest in CR No.513 of 2017 dated 27.10.2017 registered with Bhiwandi Police Station, District-Thane u/s 420 r/w 34 of the Indian Penal Code and under Sections 3, 8 and 13 of Maharashtra Ownership Flats Act (MOFA Act).

2] Heard the learned Counsel for the applicant and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Shri Venkatesh V. Shanbag. It is stated in brief that, after reading advertisement in the newspaper in the month of September 2013 about the construction of a

residential complex, on a piece of land lying and situated at village Kharbav, Bhiwandi, District-Thane, he visited the office of Shree Mahavir Patwa Developers. That a person by name Shri Bharat Bhanushali explained about the project to him and also stated that the applicant is one of the partners in the said firm. The first informant therefore decided to purchase a commercial premises i.e. shop No.23, on the ground floor, and also decided to purchase a residential flat in the said complex and thereafter made payment of a total sum of Rs.4,56,000/- as deposit to said Shree Mahavir Patwa Developers of which the applicant is one of the partners. It is stated that, despite receipt of payment to the said Developers, the first informant, neither got possession of the agreed premises nor the partners of the said firm returned the amount. In the premise, the first information report is lodged.

4] Mr. Kadam, the learned Counsel for the applicant submitted that, the applicant joined the said firm namely Shree Mahavir Patwa Developers and Construction belatedly and his stake/invest in the said firm is 3% only. He submitted that, after the applicant realized that there is something amissed in the affairs of the said firm, he initially filed a Criminal Petition bearing No.2853 of 2017 in this Court for lodging of a

F.I.R against the other partners of firm, however, the Division Bench of this Court directed him to file a private complaint in that behalf. That accordingly he filed a private complaint bearing No.308/SW of 2017 before the Metropolitan Magistrate, 66th Court, Andheri, Mumbai. He submitted that, as a matter of fact, the applicant has not received any benefit/profit till today from the said firm and the applicant himself is a victim as the other partners of the said firm induced him to invest and assured him that he will earn handsome returns from the said project. That the investigation of the present crime is revolving around documents and therefore he submitted that the custodial interrogation of the application is not necessary and prayed that, he may be protected by pre-arrest bail.

5] The record of investigation indicates that, during the course of investigation it is revealed that about 5000 gullible flat purchasers have been induced by the partners of Shree Mahavir Patwa Developers to deposit/invest money in the said project situated at village Kharbav, Taluka-Bhiwandi, District-Thane and till date, neither the premises/flats are given to those persons nor amount so invested in the project have been returned to them. Prima facie it appears that, it is a wide spread conspiracy and has been executed in a preplanned manner. As far as the contention of the

learned Counsel for the applicant that, the applicant himself was induced by the other partners of the firm to invest the amount in the project is concerned, prima facie it appears that with a view to camouflage his misdeeds and after sensing that the firm has committed an act of cheating with more than 4000 gullible investors, the applicant with a view to prepare his defence in advance has adopted the said proceedings. The applicant may be having dispute with the other partners of the said firm with respect to monetary transaction, but the same has nothing to do with the present crime. As noted earlier, prima facie it appears that the present crime is committed with due deliberation by hatching a wide spread conspiracy to target the gullible flat purchasers who are in need of a residential or commercial premises. That the said flat purchasers have already deposited huge amounts, however after some period, the applicant and other partners of the said firm, instead of giving possession of the premises or to return the amount, have defalcated the said amounts for their personal benefit thereby causing wrongful loss to the said gullible flat purchasers. During the course of investigation, it is further revealed that certain amounts have been transferred in the account of the applicant by the said firm or by other persons which needs to be thoroughly investigated.

It is also to be noted here that, occurrence of similar type of offences in and around the city of Mumbai are on rise where the gullible flat purchasers are being targeted.

6] After taking into consideration serious allegations against the applicant, gravity of offence and to unearth the entire truth behind the aforestated wide spread conspiracy and to investigate the amounts so transferred in the account of the applicant, the custodial interrogation of the applicant for investigation of the present crime is necessary. In view thereof, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

7] The application is accordingly rejected.

(A.S.GADKARI, J.)