

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

ANTICIPATORY BAIL APPLICATION NO.210 OF 2018

1. Vinodbhai Dwarkadas Patel	
2. Premjibhai Bhaichandbhai Patel	...Applicants
Versus	
The State of Maharashtra	...Respondent

.....

Mr. Aniket Nikam I/b. Mr. Aashish Satpute for the Applicants.

Mr. Virendra Pethe for the Intervenor.

Mr. S.H. Yadav, APP for the Respondent-State.

Mr. Hari D. Raut, PSI, Satpur Police Station, Nashik city, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th OCTOBER, 2018.

P.C.:-

This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R. No.I-363 of 2017 registered with Satpur police Station, District-Nashik, for offences punishable under Sections 267, 406, 420 r/w. 34 of the Indian Penal Code, 1860 and Sections 3, 4, 5, 6, 7 and 11 of the Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer) Act, 1963.

2. Heard Mr. Aniket Nikam, the learned counsel for the Applicants and Mr. S.H. Yadav, the learned APP for the Respondent-

State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by one Vijay Jadhav. The FIR prima facie reveals that the first informant and his brother had booked two flats on 22.1.2013 and subsequently they entered into an agreement and deed of apartment in the month of March-2014. It is not in dispute that the first informant and his brother had paid the consideration and that the Applicants being the developers of the said property had handed over possession of the said flats to the first informant and his brother on 27.8.2014. It appears that several other disputes have arisen between the first informant and the Developers as a result of which the first informant has lodged the FIR more than three years after taking possession of the said premises.

4. The allegations in the FIR are that the Applicants had not appraised the first informant about the amended plan, that the construction is not as per the approved plan, etc. The nature of allegations in the FIR, which as stated earlier, is lodged after more than three years after taking possession of the flats, do not justify

custodial interrogation. The records further reveal that the Applicants were granted interim bail vide order dated 5.2.2018. The learned counsel for the Applicants has submitted that the Applicants have complied with the conditions and have reported to the investigation officer and that they have already been interrogated. Presence of the Applicants is not required for investigation and/or interrogation. The Applicants have roots in the society hence, there is no possibility of the Applicants absconding or fleeing from justice. The Applicants have no criminal antecedents.

5. Considering the above facts and circumstances, the application is allowed on following terms and conditions:-

- (i) In the event of arrest of the Applicants in C.R. No.I-363 of 2017 registered with Satpur police Station, District-Nashik, the Applicants shall be released on bail on furnishing bail bonds of Rs.50,000/- each with one or two solvent sureties in the like amount.
- (ii) The Applicants shall furnish their permanent as well as temporary addresses, if any, and their contact details to the concerned investigation officer.
- (iii) The Applicants shall not change their residential

addresses without prior intimation to the concerned investigation officer.

(SMT. ANUJA PRABHUDESSAI, J.)