

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

ANTICIPATORY BAIL APPLICATION NO.1203 OF 2017

Sonali Kalidas Chandane & Anr.	... Applicants
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1178 OF 2017**

Pankaj Jha	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1179 OF 2017**

Anuj Kumar Jha	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1180 OF 2017**

Vaikuntha Mahanchandra Jha	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1182 OF 2017**

Sachin Ramchandra Jagdale	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1183 OF 2017**

Namrata A. Chudnaik	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1207 OF 2017**

Swapnil Pradeep Phanse	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

**WITH
APPLICATION NO.1208 OF 2017**

Rohil Ramesh Tiwarekar, Through his C.A. Ramesh D. Tiwarekar	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Harshad Inamdar, i/by Mr. Yogesh Dandekar for the Applicant.
Mr. Omkar Nagvekar, Applicant in APPP/1178/2017, APPP/1179/2017, APPP/1180/2017, APPP/1181/2017, APPP/1182/2017, APPP/1183/2017.
Mr. N.S. Parabkar for Respondents in ABA/1203/2017 & for Applicant in APPP/1207/2017 & APPP/1208/2017.
Mr. A.A. Takalkar, APP for the Respondent – State.

CORAM : A.S.GADKARI, J.

DATE : 9th JANUARY 2018

P.C.:

1. This is an application under Section-438 of the Code of Criminal Procedure for pre-arrest bail in CR No.163/2017 dated

16.04.2017 registered with Charkop Police Station, Mumbai under Sections 420, 406, 120(B) of the Indian Penal Code r/w. M.O.F.A. Act.1963.

2. Heard the learned counsel for the applicants, learned APP and perused the record of investigation.

3. The first information report is lodged by Mr. Vipul N. Sanghavi. Applicant No.1 is the Director of M/s. Prisha Developers and Applicant No.2 is the husband of Applicant No.1 and is also the Legal Consultant of the said company. It is the prosecution case in nutshell that the applicants represented the first informant and other investors that they are developing a property bearing C.T.S. No.1393, 1396, 1399C lying and situated at Mouje Dahisar, Borivali, Mumbai having the name of project as Prisha Heights. That a person by name Mihir Oza represented himself to be the Marketing Agent of the said project and initially made representation to the first informant that the applicants are developing the said project and the work of development will be started within a period of two months from December 2013. It is the case of the first informant that on the basis of the representation made by the applicants, he paid a sum of Rs.33,99,825/- to the applicants for purchase of a flat in the said project alongwith the parking space therein. That the applicants neither started the construction of the said project, nor refunded the amount paid by the first informant despite repeated requests. That the applicants had one or the other pretext continued to dodge the first informant for making payment to him. In the premise, the first information report is lodged.

4. The learned Counsel appearing for the applicants submitted that as a matter of fact, the said project could not be started and completed within

the stipulated period mentioned in the allotment letter/letters as various litigations are pending before the Maharashtra Revenue Tribunal and this Court and it is because of the said reason, the applicants could not complete their commitment. As far as repayment of the amount accepted from the investors is concerned, the learned Counsel on instructions from the applicants gave innumerable reasons for not paying the same. He submitted that the first informant was not aware of the fact that the litigations are pending before the various forums and it is the reason that there is a delay in starting and completing the construction of the said Prisha Heights. He submitted that the applicants are having bonafide intention to complete the said project namely Prisha Heights. However, the time to complete it, cannot be given at this stage. He, therefore, prayed that the applicants may be granted pre-arrest bail.

5. The record of investigation carried out till date indicates that the applicants have accepted a sum of Rs.1,33,69,585/- from the 26 flat purchasers by issuing letter of allotments only. The applicants did not even execute agreements before accepting the said amount from the investors. The record further clearly indicates that the applicants even did not mention and/or intimate to the purchasers the fact that, there are various disputes pending before the various forums and the landed property is subjudice pertaining to the land on which they are intending to construct the said building namely Prisha Heights. Without making such a disclosure to the investors, the applicants have accepted the said huge amount from them. The statement of witnesses clearly indicate that the applicants by making false representations have accepted the said amount from them. Undoubtedly, the said act of applicants is an offence of

cheating.

6. In considered view of this Court on non-disclosure of the material fact at the time of accepting the amount from the purchasers and by simply executing and/or issuing letter of allotment in that behalf, it is necessary for the Investigating Agency to thoroughly investigate the entire truth behind it. Prima facie it appears that it is a wide spread conspiracy hatched by the applicants to dupe the gullible flat purchasers and the same has been executed in a well organized manner.

7. In view of the above and after taking into consideration serious allegations against the applicants and the gravity of offence, this Court is of the considered view that the applicants do not deserve to be protected by pre-arrest bail.

8. Application is accordingly rejected.

In view of the Order passed in ABA/1203/2017, the application for intervention bearing APPP/1178/2017, APPP/1179/2017, APPP/1180/2017, APPP/1181/2017, APPP/1182/2017, APPP/1183/2017, APPP/1207/2017 and APPP/1208/2017 do not survive and the same are accordingly disposed off.

9. At this stage, the learned Counsel for the applicants submitted that with a view to enable the applicants to approach the Hon'ble Apex Court, interim relief granted earlier be continued for a period of four weeks. The learned Counsel appearing for the interveners vehemently opposed the same. For the reasons stated herein-above, the said prayer is rejected.

(A.S.GADKARI, J.)