

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

**CRIMINAL BAIL APPLICATION NO.1801 OF 2018
WITH
INTERVENTION APPLIATION NO.1524 OF 2018**

Biren Gunwantrao Pujara

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Ms.Krupali Rajani i/b. Mr.Jaideep thakare, Advocate for the Applicant.

Ms.A.A. Takalkar, APP for the Respondent – State.

Mr.Shrilimaya Sadashiv, Advocate for the Intervener.

Mr.Ashok T. Wagh, API, Kapurbawadi Police Station, District – Thane, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : DECEMBER 10, 2018.

P.C. :

This is an application for bail under Section 439 of Code of Criminal Procedure. The applicant was arrested on 31st January, 2018, in connection with C.R.No.I-34 of 2018, registered with Kapurbawadi Police Station, District-Thane for the offences punishable under Sections 420, 465, 467, 468. 469 and 470 read with 34 of Indian Penal Code (“IPC”, for short).

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First Information Report (“FIR”, for short) was lodged by Anil Kumar Singh, on 30th January, 2018, alleging that he had

booked four flats with the applicant-accused in the project of construction. Complainant has deposited the requisite amount towards purchase of the said flat. However, as promised, the possession of the premises was not given to him. The flats were booked in the year 2015. It is also the case of the prosecution that several other persons have purchased the flats by depositing the amount. About 37 flats purchasers had come forward to lodge complainant against the applicant. The total amount towards the sale of the flats was allegedly about Rs,8 crores.

3 The investigation is completed and the charge-sheet has been filed. Learned counsel for the applicant submitted that there is no element of forgery and the only other offence which is registered is Section 420 of IPC. Applicant is in custody from January 2017. Investigation is completed and charge-sheet has been filed. The complaint relates to not providing the flat premises to the purchasers of the flats. The construction could not be completed on account of requisite plans not being approved and application for rectification is pending before the Authority. The applicant would make endeavour to complete the project as promised to the purchases of the flats. However, if the applicant continues to be under detention, it would not be

possible for him to pursue the requisite applications for rectification and/or to complete the project. It is further submitted that the applicant may atleast be released on provisional bail for a period of six months to enable him to complete the project and whether he is taking steps towards completion of the project can be monitored. However, unless the applicant is set at liberty, he would not be in a position to fulfill promise and hand over the possession of the premises to the purchases to the purchasers of the flat. It is further submitted that it is not in the interest of the purchasers to keep the applicant in detention, as they are more interested in getting the possession of the premises. Learned APP submitted that the applicant is involved in serious crime. The forgery relates to the description of the premises. It is further submitted that amount of about Rs.8 crores is involved in the said project. There are about four projects and the construction of only one project which his half done is being undertaken by the applicant accused. There are several purchases of the flat, however, so far, 37 persons have come forward with their grievances and their statements have been recorded by the police. He submitted that although huge amount was received from the purchasers, the construction was not completed. There were no proper permissions from the

Authorities and the construction was not in accordance with the plans. It is also submitted that there is double sale of some of the flats. It is, therefore, submitted that considering the conduct of the applicant and the nature of crime, the applicant may not be granted bail. Learned counsel for the complainant appearing in the Intervention Application also reiterated the submissions advanced by learned APP. It is submitted that the construction, as promised was not carried out. There were no requisite permissions to complete construction. Several other purchasers are cheated by the applicant.

4 I have perused the documents. The case of the prosecution is that the flats were booked from 2015 onwards. There are about four projects, out of which construction of three projects have not commenced. Construction of one project has commenced but only half the construction is being completed. Apparently, 37 aggrieved persons have come forward, whose statements are recorded. It is also pertinent to note that the case of the prosecution is that some of the flats were sold to two persons or more than two persons. The applicant-accused has collected huge amount of Rs.8 crores. It is also alleged that after collecting the amount towards sale of flat, the same is being

utilized for other projects. Taking in to consideration the aforesaid circumstances, I do not find that the case grant of bail is made out.

5 Hence, I pass the following order:

:: ORDER ::

- (i) Bail Application No.1801 of 2018, is rejected;
- (ii) Intervention Application No.1524 of 2018, stands disposed of accordingly;
- (iii) In the event of trial does not conclude within a period of nine months from the receipt of this order, applicant is at liberty to prefer a fresh application for bail.

(PRAKASH D. NAIK, J.)