

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1984 OF 2018

Rajesh Sakaldev Yadav, Age 34 years,
Occ.Business, R/o.Flat No.101, Building No.B/70,
Nitin Shanti Sagar CHS Limited,
Sector-1, Mira Road (East), Thane-401 107 Applicant
versus

1. The State of Maharashtra
2. The Inspector of Police, Waliv Police Station,
District Palghar Respondents

Mr.Priyanshu S. Mishra for applicant.
Mr.Arfa Sait, APP, for State.
Mr.Ankush R. Warangase, PSI, Waliv Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 17th October 2018

PC :

1. This is an application for anticipatory bail in connection with CR No.I-626 of 2018 registered with Waliv Police Station, Palghar for offences under Sections 420, 504, 506 of Indian Penal Code read with Sections 3 and 4 of Maharashtra Protection of Interest of Depositors Act, 1999 read with Sections 3, 4 and 8 of Maharashtra Ownership Flats Act, 1963.

2. The prosecution case is that the complainant Chandrashekhar Nagori and other aggrieved person Mr.Salim Khan had agreed to purchase gala nos.2, 3 and 5 at Radhakrishna Chawl Committee Wagharalpada, Near Goshala Ashram, Boidapada, Village Rajawali, Vasai (East), Taluka Vasai. Gala No.2 was in the name of

Uttereshwar Raut, Gala no.3 was in the name of Rajkumar Ramkisan Yadav and Gala no.5 was in the name of Rajesh Yadav. They had agreed to purchase each gala for total consideration of Rs.8,50,000/-. On 23rd October 2017 the complainant and the witnesses had asked for the possession of galas from accused but the same was not handed over to them. The accused Rajesh Yadav (applicant), however, issued cheque of Rs.6,90,000/-. The said cheque was drawn in the name of Nandesh I. Bawa. The agreements were executed for sale of galas in favour of complainant and other witnesses. It is further alleged that one Vikram Tiwari had introduced the complainant and other witnesses to the accused. The applicant had agreed to sell gala no.5 to Ms.Reshma Salim Khan and Mr.Mohd. Salim Aslam Khan for Rs.8,50,000/-. He had accepted earnest amount of Rs.4,00,000/- and executed unregistered agreement in favour of purchasers. All the agreements were unregistered and they were notarized. The FIR was registered with Waliv Police Station on 17th July 2018.

3. The applicant preferred application for anticipatory bail before the Court of Sessions which was rejected by order dated 17th September 2018.

4. Learned counsel for applicant submitted that the complaint is false. The custodial interrogation of the applicant is not necessary. The entire amount towards consideration as agreed between the parties, was not paid and, therefore, the question of handing over possession of the galas does not arise. It is further submitted that the transactions were genuine. He relied upon several documents in relation to the said premises. It is submitted that the entire matter

relates to the documents and custodial interrogation of the applicant is not necessary. Although the documents executed with the purchasers were unregistered, the same were notarized and the applicant had authority to execute such documents. It is also submitted that other accused were arrested and they were released on bail.

5. Learned APP submitted that the applicant is involved in serious crime. The victim were induced to purchase the premises by parting amounts and although consideration was paid, possession of the premises was not handed over to them. It is further submitted that all the agreements for sale are unregistered and the same are notarized. It is submitted that the applicant had accepted earnest money from the purchasers of galla. It is further submitted that custodial interrogation of the applicant is necessary for the purpose of recovery of amount and to unearth the truth.

6. The investigating officer has collected the documentary evidence which reveals that the applicant had agreed to sell shop no.5 to Reshma Khan and Salim Khan. He has executed an agreement of sale in their favour. According to the prosecution, the case relates to unauthorized construction and it's sale. The alleged agreement of sale is unregistered. Taking into consideration the aforesaid circumstances, case for grant of anticipatory bail is not made out. Hence, Criminal Anticipatory Bail Application No.1984 of 2018 is rejected.

(PRAKASH D. NAIK, J.)