

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

ANTICIPATORY BAIL APPLICATION NO.48 OF 2019

Kanhaiyalal Rajit Prajapati & Anr.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO.65 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.48 OF 2019**

Navnath Kisan Said & Ors.	...	Intervenor
<u>In the Matter between</u>		
Kanhaiyalal Rajit Prajapati & Anr.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO.460 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.48 OF 2019**

Can Fin Homes Limited	...	Intervenor
<u>In the Matter between</u>		
Kanhaiyalal Rajit Prajapati & Anr.	...	Applicants
V/s.		
The State of Maharashtra	...	Respondent

Mr. M. S. Mohite I/by A. A. Patankar for the Applicant.
Ms. Nirmala Bhosale for intervenor in APPP No.65/2019.
Ms. Fatima Lakdawala for intervenor in APPP No. 460/2019.
Mr. Ajay Patil, APP, for the Respondent-State.

CORAM : A. S. GADKARI, J.
DATE : 23rd APRIL, 2019.

P.C.:-

- 1] Heard the learned counsel for the applicants, the learned counsel for the intervenors and the learned APP for the state.
- 2] By an order dated 9th January 2019, the applicants were granter interim relief.
- 3] The applicants in intervention Application No.65 of 2019 are the flat purchasers in a project floated by the applicants. The applicant in Application No.460/2019 is the Financial Institution who has advanced loan facility to flat purchasers, namely, Kalpesh Anant Dhargalkar, Ashok Tukaram Shinde and Rakesh Manohar Zanzad i.e. Intervenor Nos. 2, 3 and 7 in Application No. 65 of 2019.
- 4] Initially, the applicants had settled the matter with the flat purchasers i.e. applicants in application No.65/2019 by entering into Consent Terms dated 18th February, 2019, which is marked as Annexure 'X' and are on the record of this Court. By the said Consent Terms, it was agreed by the applicants in ABA No.48/2019 to pay the amount accepted by them to the respective flat purchasers on stipulated dates scheduled therein.

5] The Financial Institution subsequently filed Application No.460/2019 for intervention having their claim on the residential premises which was supposed to be allotted to the said three persons i.e. Intervenor Nos. 2, 3 and 7 in Application No. 65 of 2019 as the said premises are mortgaged with the said Financial Institution.

 The applicants in ABA No.48/2019 and the Intervenor Nos.2, 3 and 7 in Application No. 65 of 2019 alongwith the representative of the Financial Institution tried to settle the dispute inter-se.

 Thereafter, many rounds of deliberations took place to secure the interest of Financial Institution. Accordingly, Additional Consent Terms dated 23rd April 2019 are tendered across the bar today. The same are taken on record and marked as Annexure “X-1” for identification. The said consent terms are duly signed by the said three persons i.e. Intervenor Nos.2, 3 and 7 in Application No. 65 of 2019, the representative of the Financial Institution i.e. the Intervenor in Application No.460 of 2019 and the applicants in ABA No.48/2019. Their signatures have been identified by the respective Advocates appearing on behalf of the parties.

6] The statements and clauses of the agreement pertaining to

repayment of amounts to the concerned by the Applicants in ABA No.48/2019 mentioned in both the Consent Terms (I.e Annexure 'X' and Annexure 'X-1') are treated as undertakings given to this Court.

In view of the Consent Terms dated 18th February 2019 and the Additional Consent Terms dated 23rd April 2019, it is thus clear that, the parties herein have settled the matter amicably.

7] In view thereof, the interim relief granted by Order dated 9th January 2019 is hereby confirmed.

Anticipatory Bail Application is allowed in the aforesaid terms.

8] In view of the order passed in ABA No.48 of 2019, the Application Nos. 65/2019 and 460/2019 for interventions are disposed off.

9] At this stage, the learned counsel for the applicants submitted that, during the course of investigation Police have frozen the bank accounts of the applicants under section 102 of the Code of Criminal Procedure. The applicants have already filed Criminal Application No. 319/2019 under section 482 of Code of Criminal Procedure before this Court praying for defreezing of the said account, which is pending for hearing.

The learned counsel for the applicants further submitted that, in view of the order passed in this ABA No.48 of 2019, the Order passed under section 102 of the Code of Criminal Procedure needs to be set aside and bank be directed to defreeze the account of the applicants.

10] In view of the above liberty is granted to the applicants to move the said application No.319/2019 before the appropriate Bench or the Registry.

(A.S. GADKARI, J.)