IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 299 OF 2019

Maya Deepak Patil .... Applicant

versus

The State of Maharashtra .... Respondent

…....

- Mr. Niteen Pradhan I/b Ms. Shubhada D. Khot, Advocate for Applicant.
- Smt. A. A. Takalkar, APP for the State/Respondent.
- Mr. Biswa Choudhury, Advocate for Respondent no. 2.
- Mr. D. S. Shinde, API, Chaturshrunti Police Station, Pune.

CORAM : SARANG V. KOTWAL, J.
DATE : 27th AUGUST 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 475/17 registered with Chaturshrungi Police Station, under sections 406, 409, 420, 465, 467, 468 and 471 of the Indian Penal Code and under Sections 3, 10 and 13(1) of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.

2. The FIR is lodged on 12th September 2017 by one Atul

Divekar. He has stated that in October 2014, he came to know that a construction project was going on at Balewadi by the name Sidhant Heights. He wanted to purchase a flat. He met the director of the project one Deepak Patil. Both of them entered in the negotiation. Deepak Patil represented to him that he had all the permissions for completing the project and he would be completing the project within a period of two years. The informant was shown commencement certificate issued by Pune Municipal Corporation on 12th March 2014. The informant agreed to purchase a flat no. 702 ad-measuring 728 sq. ft in 'B' wing and another flat in the same wing bearing no. 704 of the equal area. The informant paid Rupees Fifty Nine Lakhs Fifty Thosands as consideration. In addition, he paid Rupees Seven Lakhs Sixty Five Thousands Four Hundred for other expenses like registration, stamp duty, etc. The agreement was registered at sub-registrar office. After this, for more than two years construction work was not completed and possession was not given to the informant. The accused Deepak Patil was continuously giving assurance that flats would be handed over shortly. The informant became suspicious and made inquiry. He came to know that the commencement certificate mentioned in the agreement was a forged document. After that, the informant asked them for refund of his money. Accused Deepak Patil refunded Rupees Twenty Lakhs. The balance amount of Rupees Forty Seven Lakhs Fifteen Thousand and Four Hundred was not refunded. The informant was thus cheated and his money was misappropriated. Therefore, he lodged this FIR.

3. The present applicant is wife of the said Deepak Patil and she is apprehending her arrest in connection with this offence, because she was a director in the company with which the agreement was entered into and money was taken from the informant.

4. Heard, Mr. Pradhan, learned counsel for the applicant as well as Smt. Takalkar, learned APP for the State and Mr. Biswa Choudhary, learned counsel for respondent no. 2/first informant.

5. Mr. Pradhan submitted that the applicant was a house wife and the entire business was looked after by her husband

Deepak Patil. He further stated that Deepak Patil was already arrested in connection with this offence and is released on bail. The present applicant has played no role in the entire transaction. Neither there are any allegation against her in the FIR.

6. Mr. Pradhan invited my attention to the orders passed by this court on 4th February 2019 and 12th February 2019 and pursuant to those orders the applicant had deposited Rupees Twenty Lakhs in this court. Mr. Pradhan, on instructions, makes a solemn statement before this court that his client has no objection if the amount, which is deposited in this court, is withdrawn by the informant unconditionally. Learned counsel for the informant accepted his statement.

7. Learned counsel for the informant, on instruction of the first informant, who is present in the court, states that the informant is willing to accept that amount unconditionally without prejudice to his other rights which are available to him in law. He prays that the interest which is accrued on this amount also be given to the first informant.

8. Learned APP submitted that after the agreement was executed between the parties, amount of Rupees Thirty Two Lakhs has been transferred in the personal account of the present applicant. Therefore, she is also involved in this offence.

9. I have considered all these submissions. Perusal of FIR shows that the representation was made by the applicant's husband. Entire discussion was between the first informant and the applicant's husband. There is not a word of allegation against the present applicant in the FIR. Undoubtedly, she was a director in the company during the relevant period, but that itself will not show her complicity in the offence. Of course, the amount of Rupees Thirty Two Lakhs has gone in her account. However, the FIR shows that before lodging of the FIR Rupees Twenty Lakhs were refunded to the first informant and the applicant had shown her bonafides by depositing Rupees Twenty Lakhs in this court pursuant to the earlier orders passed by this court.

10. In this view of the matter, no purpose will be served by custodial interrogation of the applicant. The applicant is a lady

and from the allegations there is nothing to show that she had taken an active part in the entire transaction. Needles to say that the informant has all his legal remedies open which he can pursue in accordance with law. Hence, the following order:-

ORDER

(i) In the event of her arrest in connection with C.R. No.475/17 registered with Chatursrungi Police Station, the Applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/-(Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) The respondent no. 2 is permitted to withdraw the amount deposited by the applicant in this court alongwith the interest accrued on it.

(iii) The applicant shall attend the concerned police station as and when called.

(SARANG V. KOTWAL, J.)