

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

ANTICIPATORY BAIL APPLICATION NO. 436 OF 2018

Vikas Hiraji Mhatre ... Applicant

Versus

State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 450 OF 2018**

Balkrishna Mahadu Sinare ... Applicant

Versus

State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 430 OF 2018**

Vidyaprakash Premprakash Singh ... Applicant

Versus

State of Maharashtra ... Respondent

Ms. Sapna Rachure for Applicant in ABA No.430 of 2018.
Mr. Balkrishna D. Joshi for Applicant in ABA No.436 of 2018.
Mr. Prithviraj S. Gole for Applicant in ABA No.450 of 2018.
Ms. S. S. Kaushik, APP for Respondent – State.
Mr. Pradip Sawant, API, BOW-II, Navi Mumbai present in Court.

**CORAM : NITIN W. SAMBRE, J.
DATE : JANUARY 22, 2019.**

P.C. :

. In Crime No. 223 of 2017 for an offence punishable under Sections 420 & 409 read with Section 34 of the Indian Penal Code all the Applicants are seeking pre-arrest bail.

2. The prosecution case is, the Company by name 'Padmavati Infra Heights Private Limited Phase III and Phase IV' is engaged into the business of land development and has floated a scheme in Navi Mumbai area. The Applicants before this Court are the Directors of the said Company.

3. It is the case of the prosecution that the Applicants have accepted the huge amount from the prospective buyers of the flat in the said Infra Project by promising ready possession by the end of 2016. Since neither the possession was delivered nor the amount was refunded, the offence in question is registered.

4. Heard learned Counsel for the respective Applicants. The learned Counsel submits that plot in question was purchased in the name of Mr. Mahendra Singh, who is a lead director in the Company, whereas

the status of the present Applicants is that of nominal non-executive directors. According to him, since the said lead director Mr. Mahendra Singh, who is owner of the property on which the project was to be developed is arrested in some other crime since 2016, the project was not effected.

5. The learned Counsel submits that the land of the complainant and other investors can be recovered from the property in question. As such, it is claimed that having obtained permission from the various authorities for implementing the project no *mala fides* or intention to commit fraud can be inferred against the Applicants.

6. *Per contra*, the learned APP submits that the total amount accepted by the present Applicant from the various flat owners is around Rs.2.00 Crores. The said amount is enjoyed by the Applicants for last more than three years and the promise of delivery of developed property is not honoured, though the consideration thereof is accepted.

7. Considered rival submissions.

8. From the record it appears that the Applicants who are directors of Company 'Padmavati Infra Heights'. All have acknowledged the receipt of the amount from prospective buyers like the complainant and also the fact that the project was to be completed by December 2016. Having accepted the considerations from the prospective buyers, the fact remains that the property in question which is sought to be developed has never comes to the coffers of Padmavati Infra Heights – Registered Company. It appears that the amount deposited by the prospective buyers must have gone to the coffers of individual directors as the land over which the project was to be developed, never transferred in favour of the company.

9. In response to the Court's query, there is no concrete proposal coming-forth from the Applicants so as to honour the commitment given to the prospective buyers or else to refund of the amount by citing reason of arrest of the lead director Mr. Mahendrasingh.

10. In the aforesaid background, there is sufficient material on record to infer *prima facie* involvement of the Applicant in the crime in question.

11. That being so, all the Criminal Anticipatory Bail Applications sans merit. Hence, all the Applications are rejected.

(NITIN W. SAMBRE, J.)