

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

ANTICIPATORY BAIL APPLICATION NO.597 OF 2019

Yashwant Laxman Sabale	 Applicant
versus	
The State of Maharashtra	 Respondent

**WITH
CRIMINAL APPLICATION NO.704 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.597 OF 2019**

Manoj Kisan Choudhary	 Applicant/ Intervener
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IN THE MATTER BETWEEN :

Yashwant Laxman Sabale	 Applicant
versus	
The State of Maharashtra	 Respondent

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- Mr.Hemant Zanjad i/b. Veerdhaval Kakade, Advocate for Applicant.
- Mr.Rajan Salvi, APP for the State/Respondent.
- Mr.Dinesh Mishra, Advocate for Intervener.
- Mr.Rajesh A. More, Advocate for Intervener in APPP No.704/19.
- PSI Mr.Rajkumar Ramrao Adgale, Khopoli Police Station, Raigad, present.

**CORAM : SARANG V. KOTWAL, J.
DATE : 31st JULY, 2019**

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.35/19 registered with Khopoli Police Station, Raigad, under sections 406, 420, 504 506 of the Indian Penal Code.
2. The FIR is lodged by one Maninderpalsingh Tarlochansingh Anand on 21/02/2019. He has stated that he and his brother wanted to purchase flats at Khopoli. In July 2012 they came across a construction site where construction was going on by the name 'Sai Siddhi'. That construction was undertaken by M/s Kashi Homes Pvt. Ltd. The informant went to the office of the builder. At that place he met the present Applicant. He informed the first informant about the construction. He represented that he had obtained NOC from Khopoli Municipal Council. The first informant and the present Applicant entered into negotiations for purchase of two flats i.e. flat No.301 for the informant and flat No.302 for the informant's brother Nittusingh Anand admeasuring 886 sq.ft. each. The price was fixed at Rs.21 lakhs each. The informant has

mentioned in his FIR that, on 25/07/2012, by executing sale deed he had purchased that flat No.301 and his brother had purchased flat No.302 on the same date by a registered sale deed. Two of them had paid Rs.21 lakhs each to the Applicant. Thereafter neither the flats were given to them, nor the money was returned. When the informant approached the Applicant, he was abused and threatened. On this basis, the FIR is lodged.

3. Heard learned Counsel Mr.Hemant Zanjad for the Applicant, Mr.Dinesh Mishra, Advocate for Intervener, learned Counsel Mr.Rajesh A. More for the Intervener in APPP No.704/19 and learned APP Mr.Rajan Salvi for the State.

4. The learned Counsel for the Applicant submitted that prior to lodging of the FIR, the first informant had approached RERA Authorities and some orders are passed in those, proceedings. He submitted that the informant did not mention anything about his approach to the RERA Authorities. He further submitted that, as on today, he has received part OC in respect of the building and he is willing to hand over the possession to

the first informant and his brother. He submitted that, though, he had entered into an agreement for sale of flat No.301 with another person, he has taken steps to cancel that transaction by filing appropriate civil proceedings.

5. Learned Counsel for the Intervener as well as the learned APP submitted that the Applicant has sold the same flat to different persons. Therefore his intention to cheat both flat owners is manifest from his conduct. They submitted that the civil litigation in respect of the flat No.301 will not serve any purpose. The first informant and his brother have suffered irreparable loss and mental harassment.

6. I have considered these submissions. The conduct of the Applicant shows that the same flat i.e. Flat No.301 was sold to different persons. The possession of the flat No.301 as well as Flat No.302 was not given to any of the flat purchasers. At this stage, the issue is made complicated by his own conduct as he has sold Flat No.301 to another person. The statement that he had sold flat No.301 to subsequent purchaser through mistake,

can not be accepted at this stage. The FIR does clearly make out the offence committed by the present Applicant. Money given by the flat purchaser is misused by the Applicant for a long time. Therefore even offence of misappropriation of the amount is made out. In this view of the matter, custodial interrogation of the Applicant is necessary to trace the money as well as to find out the exact planning and execution of the offence. In this view of the matter, no case for anticipatory bail is made out. The application is therefore rejected.

7. At this stage, the learned Counsel for Applicant prays for extension of interim protection. Considering the nature of offence committed and considering that his custodial interrogation is necessary to carry out investigation, the request is rejected.

8. The application for anticipatory bail as well as all the intervention applications are disposed of accordingly.

(SARANG V. KOTWAL, J.)