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

ANTICIPATORY BAIL APPLICATION NO. 602 OF 2019

Manoj Jadavbhai Patel & Anr.

..Applicants

Vs

The State of Maharashtra

..Respondent

Mr. Sandeep Mishra a/w P. Mishra for the Applicants.

Mr. S.S. Hulke, APP for State.

Mr. Girish Bhalchem, PSI, Navghar Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 11th March 2019.

P.C.:

1] This is an application under Section 438 of Cr. P.C. for pre-arrest bail in CR No.386 of 20187 registered with Navghar Police Station, District Thane, u/b 406, 420, 465, 467, 468, 471, 474, 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant and the learned APP for the State. Perused the record of investigation.

3] The first information report is lodged by Shri Deepak J. Mulik. It is stated that, the informant was in need and was searching a flat in the vicinity of Bhayander. He came into contact with the applicants who are the

agents in the business of sell and purchase of immovable properties in the vicinity of Bhayander city. The applicants showed the complainant a flat bearing No.C-402, Sai Akruti Empire, Indralok, Phase-6 Bhayander (East) owned by Smt.Biniben Ahir. The informant approved the said flat and it was decided to be purchased at Rs.35.45 lakhs. The applicants assured the informant that, the title of the said property is absolutely clear and there is no necessity to take search of its title and accordingly the informant paid substantial amount to the applicants. A Deed of Purchase of the said flat which was owned by Smt. Biniben Ahir was executed on 28.5.2013 bearing No.TNN/10-4788/2013. The applicants accepted a total consideration of Rs.29,84,400/- out of which Rs.15,44,000/- were paid by way of Cheques. The said cheque has been encashed in the account of Smt. Biniben Ahir.

4] The informant subsequently on or about 25.4.2018 came know that, the flat has already been sold by the builder to Shri.Raju D. Shah and Shri.Rajesh Bhansali on 3.7.2012 and it is alleged that the applicants were aware of the said fact. The applicants by misrepresenting the informant and by giving false assurance of its clear title, induced him to part with substantial amount and sold the flat to him in May 2013. In the premise, the first informant report is lodged.

5] The learned counsel for the applicants submitted that, the applicants have simply acted as agents and have nothing to do with the transaction in question. He submitted that, though the cash amount has been handed over to applicants, there is no proof for the same and it is the mere allegation against the applicants. That for the purpose of investigation of the present crime, the custodial interrogation of the applicants is not necessary and therefore the applicants may be protected by pre-arrest bail.

6] The first information report is self-eloquent. Since inception the applicants were in contact with the informant and they initially showed him the flat in question bearing flat No.C-402. They on several occasions assured him that the title of the said flat is absolutely clear. The applicants induced the informant to part with huge amount of Rs.29,84,400/-. Undoubtedly, it is the hard earned money of the said gullible flat purchaser who was lured by the applicants and induced to part with the same. Prima facie, it appears that, though the applicants were aware of the fact that though the flat in question was already sold to the said persons by the builder, persuaded the informant to purchase it. The learned APP submitted that, the custodial interrogation of the applicants is necessary for

investigation, as to how many other victims are there by adopting similar modus operandi.

7] After taking into consideration the gravity of offence and serious allegations against the applicants, this Court is of the considered view that the applicants do not deserve to be protected by pre-arrest bail.

Application is rejected.

(A.S.GADKARI, J.)