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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.693 OF 2018

Satish Devidas Zond ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.D.R.ChoudharI, Senior Advocate I/b. Deendayal G.Dahnure for the applicant.

Mr. S.H.Yadav, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 15, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. After his arrest on May 11, 2017 in crime No.243/2017 for offence punishable under sections 420 and 406 read with 34 of the Indian Penal Code and under sections 3 and 44 of the Maharashtra Protection of Interest of Depositors Act, 1999 ('MIPD' for short) registered with Nigdi police station, District Pune, the applicant is charge-sheeted.

3. The submissions of learned senior counsel are, the

investigation is the matter is already over and charge-sheet is filed. The applicant has not diverted the amount received from the prospective buyers to any of his personal account or accounts of his relatives. As such, there is no criminal intention or motive to commit the offence in question. If released, it is claimed that in addition to the amount of Rs.1 crore and odd which is already refunded, the applicant will be in a position to return the amount to the complainant and other similarly placed persons.

4. Learned APP opposed the claim on the ground that after accepting amounts from the prospective buyers, neither the same was returned nor the plots or flats as promised was given. Since inception if the conduct of the applicant is appreciated, criminal intention can be inferred from the contents narrated in the F.I.R.

5. Having appreciated the submissions, it is noticed that the applicant has accepted huge amounts in the form of part consideration towards the plots which he promised to the prospective buyers. Least that was expected of the applicant was to invest the said amount in property and hand over the plots as agreed. However, it appears from the investigating papers that the

amount which was accepted by the applicants is not invested in immovable property as promised. According to learned APP, there is no immovable property available for attachment under MPID Act. If any property is owned or purchased by the applicant, apart from above, it is open for the applicant to bring the said fact to the notice of the investigating officer and the investigating agency shall take appropriate steps in that regard.

6. Even if the contention of learned counsel for the applicant that before registration of the offence, the applicant has refunded part of the consideration, the same cannot be considered to be *bona fide* act of the applicant, as what is refunded is very meager amount. The affidavit in reply depicts that the applicant is yet to pay an amount of Rs.4.36 crores to the prospective buyers and in further investigation, same is expected to go on much high side

7. That being so, it could be inferred that the applicant in a calculated manner since beginning has prepared himself for commission of the offence in question. There is sufficient material to infer a strong case against the applicant. As such, the application fails and is rejected.

(NITIN W. SAMBRE, J.)