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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL BAIL APPLICATION NO. 1201 OF 2018**

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of MaharashtraRespondent

WITH**CRIMINAL APPLICATION NO. 1191 OF 2018****IN****CRIMINAL BAIL APPLICATION NO. 1201 OF 2018**

Dharamveer SinghIntervener

IN THE MATTER BETWEEN

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of MaharashtraRespondent

WITH**CRIMINAL BAIL APPLICATION NO. 1202 OF 2018**

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 1189 OF 2018
IN
CRIMINAL BAIL APPLICATION NO. 1202 OF 2018

Maheshkumar Sunderlal RohilaIntervener

IN THE MATTER BETWEEN

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL BAIL APPLICATION NO. 1203 OF 2018

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of MaharashtraRespondent

WITH
CRIMINAL APPLICATION NO. 1190 OF 2018
IN
CRIMINAL BAIL APPLICATION NO. 1203 OF 2018

Prashant Subhash NatekarApplicant

IN THE MATTER BETWEEN

Mr. Jayant Moreshwar ParanjapeApplicant

V/s.

The State of Maharashtra

.....Respondent

**WITH
CRIMINAL BAIL APPLICATION NO. 1204 OF 2018**

Mr. Jayant Moreshwar Paranjape

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Ashok Mundargi Senior Advocate i/b Mr. Vinayak Patil for applicants in Bail Application Nos. 1201 to 1204 of 2018
Smt. J. S. Lohokare APP for the State
Mr. Ramesh Dube-Patil i/b M/s. Jay & Co. for intervener in all intervention applications.

**CORAM : NITIN W. SAMBRE, J.
RESERVED ON : FEBRUARY 13, 2019.
PRONOUNCED ON : APRIL 12, 2019.**

P.C.

Applicant in all these applications seeking regular bail. In Bail Application No. 1201 of 2018 he is seeking bail in Crime No. 152 of 2015, in Bail Application No. 1202 of 2018 he is seeking regular bail in Crime No. 155 of 2015, in Bail Application No. 1203 of 2018 he is seeking bail in Crime No. 157 of 2015 and in Bail Application No. 1204 of 2018 he is seeking bail in Crime No. 158 of 2015. All these

crimes are registered with Arnala Coastal Police Station for offence punishable under sections 120B, 409, 406, 467, 468, 471, 420 r/w 34 of the Indian Penal Code and Sections 13 and 14 of the Maharashtra Ownership of flats (Regulation of the promotion of construction, sale, management & transfer) Act, 1963 and under section 3 & 4 of the Maharashtra Protection of Interest (in financial establishment) of Depositors Act, 1999.

2 The facts necessary for the decision of bail applications are as under:

(1) Survey Nos.80 and 81 at Village Kofrad, Tq. Vasai, District Thane, was owned by M/s. Paranjape Construction Company of which applicant Jayant Moreshwar Paranjape is one of the partners and co-accused in this crime.) M/s. Paranjape Construction Company applied to CIDCO for permission to develop the above plot. CIDCO by its letter dated 29.08.1991 rejected the permission as a result of which an appeal was filed by M/s Paranjape Construction Company. This appeal was allowed by order dated 29.05.1992. Subsequently CIDCO issued commencement certificate permitting M/s Paranjape Construction Company to commence construction.

(2) A Development cum Sale Agreement dated 13.09.2005 was

executed between M/s. Paranjape Construction Company and M/s. ADA Construction, M/s. Perfect Solution and Management and M/s. Tarique Chunawala in respect of the said plot.

(3) A Memorandum of Understanding was executed on 16.10.2009 between Mr. Tarique Chunawala, Mr. Naresh Jain and Azam Khan, to form a company, the main object of which is to develop properties within the state of Maharashtra.

(4) On 31.12.2009 a joint Development Agreement was executed between M/s. Paranjape Construction Company and Iconic Reality Ltd. For the development of plots of land at Survey Nos: 80 and 81 as stated above. Another joint agreement dated 14.06.2010 was executed between M/s. ADA Construction, M/s. Perfect Solution and Management and M/s. Tarique Chunawala and Ionic Reality Private Ltd. for developing the plot at Survey Nos: 80 and 8.

(5) Subsequently dispute arose between M/s. Paranjape Construction Company on one hand and M/s. ADA Construction, M/s. Perfect Solution and Management and M/s. Tarique Chunawala on the other hand, which was referred to arbitration. On 11.06.2011 consent terms were filed in the said arbitration proceedings. An award was passed on 13.06.2011, which was executed. Pursuant to this M/s. ADA Construction, M/s. Perfect Solution and Management and M/s. Tarique Chunawala became

owners of the property at Kofrad Village, Taluka-Vasai, District-Thane. It was this property that was sought to be developed by the present Applicant through his company Ioinic Reality Private Ltd., after acquiring development rights.

(6) Original owner i.e. M/s. Paranjpe Construction Company had already applied for the development of the plot which was granted to it by CIDCO between 01.06.1983 to 04.06.1993 (approx). The said flat was recorded in clause (4) of the Development cum Sale Agreement, dated 13.09.2005 executed among the said M/s. Paranjpe Construction Company and M/s. ADA Construction, M/s. Perfect Solutions and Management and Mr. Tarique S. Chunawala.

3 According to prosecution, applicant is the original owner of the aforesaid property and since inception, applicant is involved in the offence in question. Further allegation against the applicant are without clear title to the land in question, applicant has entered into an agreement with the other co-accused. Other co-accused namely M/s. ADA Construction, M/s. Perfect Solution and Management and M/s. Tarique Chunawala, who have hatched a conspiracy and defrauded the people. Since the applicant has practiced fraud and is a member of group of accused who have

conspired to cheat the prospective buyers, he came to be arrested in all these crimes.

4 The submissions of the learned senior counsel for the applicant Shri. Mundargi are, there are time and again adjudication about the title of the applicant over the land in question in the Civil Court and this Court also. Attention of this Court is invited to order dated 27/04/1992 passed in Criminal Writ Petition No. 578 of 1992, order dated 25/05/1992 passed in Civil Writ Petition No.13 of 1991, order dated 18/06/1996 passed in Civil Writ Petition No. 2583 of 1996 and order dated 18/06/1986 in Writ Petition No.2606 of 1996. So also other orders dated 28/01/2004 passed by Civil Judge Senior Division, Palghar in Civil Suit No. 9 of 2003, order of the Apex Court in Civil Appeal No. 5146 of 1998 on 15/10/1998 and also that of order dated 10/03/2011 passed in Arbitration Petition No. 2155 of 2011. The submissions are, the applicant is never part of the deep rooted conspiracy as has been claimed. According to him, there is absolute title in the applicant as regards land which is subject matter of the crime, on which the project was developed by the co-

accused. It is claimed that amount of consideration, if any, accepted by the applicant is towards lawful consideration and there is no further role attributed to the applicant in the crime in question. It is also brought to the notice of this Court that the investigation to the extent of role attributed to the applicant is already over and that being so, further detention of the applicant in all these offences is not warranted.

5 *Per contra* the learned APP submits that the investigation is still going on. The applicant has received part consideration from the amount involved in the offence in question. There is material to infer the defective title of the applicant over the land for which the Development Agreement and the Power of Attorney was executed by the applicant. As such, rejection is sought.

6 From the submissions made by learned Counsel for respective parties and upon perusal of the record produced, it can be prima facie noticed that the land in question on which the co-accused decided to carry out development and has accepted huge

booking amount viz. Survey Nos.80 and 81 at village Mouze Kofrad is owned by the applicant. The earlier round of litigation which begun in 1990 onwards, prima facie, demonstrates that since the applicant holds title to the property, the CIDCO i.e. planning authority granted permission in favour of the present applicant pursuant to the order in appeal against rejection of grant of permission. The commencement certificate issued by the CIDCO in favour of the applicant speaks of the applicant holding valid documents for development of the property in question. Based on the same, co-accused Tarique Chunawala, through his Construction Company and ADA Constructions entered into Development-cum-Sale agreement dated September 17, 2005 and Joint Development Agreement dated December 31, 2009. The dispute between the present applicant and co-accused resulting into arbitration award dated June 13, 2011, primarily speaks of the applicant having not participated in the offence in question.

7 Various orders passed in writ petitions and civil suits, the approach on the part of the co-accused Azam Kham in altering

dimension of the development property and accepting additional amount, acceptance of huge amount of Rs.11 crores, Rs.10.50 crores from investors and Rs.22 crores by Tarique Chunawala – the co-accused through his Firms and individually primarily no where connects the applicant with the crime in question.

8 The applicant even if presumed to have received certain consideration for parting his land or rights in the land, however, this Court cannot be oblivious to the fact that the applicant was subjected to custodial interrogation and charge sheet is already filed. There is no privity of contract between the complainant and present applicant as could be inferred from the record.

9 That being so, the applicant is entitled to be released on regular bail on the following conditions:

(I) Applicant be released on bail in Crime Nos. 152 of 2015, 155 of 2015, 157 of 2015 and 158 of 2015 registered with Arnala Coastal Police Station, for offences punishable under Sections 120B, 409,

406, 467, 468, 471, 420 read with 34 of the Indian Penal Code and Sections 13 and 14 of the Maharashtra Ownership of Flats (Regulation of the Promotion of Construction, Sale, Management & Transfer) Act, 1963 and under Sections 3 and 4 of the Maharashtra Protection of Interest (In Financial Establishment) of Depositors Act, 1999, upon furnishing P.R. bond in the sum of Rs. 1,00,000/- (Rs. One lakh) with one or more sureties in the like amount.

(II) Applicant shall not influence witnesses or tamper with evidence.

(III) Applicant shall deposit his passport and shall not move out of the country without permission of the Court.

(IV) Applicant shall attend the Trial Court regularly and two consecutive absence for unjustifiable reasons will result in Trial Court taking out proceedings for cancellation of bail.

10 All bail applications and intervention applications stand disposed of.

[NITIN W. SAMBRE, J.]