

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

ANTICIPATORY BAIL APPLICATION NO. 1065 OF 2017

Pankti Jignesh Goradia	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO. 1042 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO. 1065 OF 2017**

Reena Kuril & Ors.	...	Interveners
V/s.		
The State of Maharashtra	...	Respondent

**WITH
CRIMINAL APPLICATION NO. 617 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 1065 OF 2017**

Vishal Gupta & Ors.	...	Interveners
V/s.		
The State of Maharashtra & Anr.	...	Respondents

**WITH
CRIMINAL APPLICATION NO. 1430 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO. 1065 OF 2017**

Jithin Sarma	...	Intervener
V/s.		
The State of Maharashtra & Anr.	...	Respondents

- Mr.Niranjana S. Mundargi i/b. Wadia Ghandy and Company for the Applicant.
- Mr.Nilesh S. Bagade for Intervener in APPP/1042/2017.
- Mr.B.C. Joshi for Intervener in APPP/617/2018 and APPP/1430/2018.
- Mrs.G.P. Mulekar, APP for the Respondent-State.

CORAM : PRAKASH D. NAIK, J.

DATE : 26th FEBRUARY, 2019.

P.C. :

1] This is an application for anticipatory bail in connection with C.R. No. I-131 of 2017 registered with APMC Police Station, Navi Mumbai for the offence punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.

2] The case of the Prosecution is that the Accused : Though their firm Yushan Realty Ventures at Vashi, Navi Mumbai promised to construct building of 14 floors at Sector 9, Ulve, namely, Mapel IV. Accordingly, advertisement was published. The building was to be completed in March 2017 and the possession was to be handed over. Several purchasers took the flats in pursuant to the advertisement. The huge amount was received by the accused and as promised the constructions could not be completed. The First Information Report was lodged with the APMC Police Station for the aforesaid offence.

3] The Applicant had preferred an application for anticipatory bail before the Sessions Court, which was rejected vide order dated 7th June, 2017.

4] Learned counsel for the Applicant submits that the entire case relates to the documents and custodial interrogation of the Applicant is not necessary. It is submitted that the Applicant is willing to complete the construction, provided the purchasers cooperate with the Applicant. The Applicant has tendered Affidavit-cum-undertaking before this Court on 3rd February 2018 as well as the Additional Affidavit-cum-undertaking on 14th February 2019. It is submitted that the Applicant would resolve the issue by carrying-out the construction as stated in the Affidavit-cum-undertaking. The Applicant has no intention to deceive the purchasers of the flats. The Applicant has *bonafide* intention to complete the project. It is submitted that the construction could be completed, provided the purchasers pay the balance consideration towards the costs of flats. It is submitted that the substantial construction has been completed by the Applicant. The husband of the Applicant was looking after the affairs of the firm. He was arrested and granted bail. It is submitted that the money received by the Applicant from the purchasers of the flat has been utilized being carrying out the construction and the details as to how the money has been utilized are furnished by way of chart in this application. It is, therefore, submitted that the Applicant be granted anticipatory bail.

5] Learned APP submits that despite accepting huge amount from several purchasers of the flats, the construction as promised was not completed. It is submitted that the accused had diverted the amount which was received towards the constructions. It is further submitted that the promises made by the accused was not fulfilled. Only 15% construction has been completed. There were about 42 persons who are purchasers of flats. However, about 31 persons who are aggrieved have approached the police whose statements are recorded. It is submitted that the investigation is still in progress. The accused had collected about 24 crores from the purchasers of the flats.

6] Some of the purchasers of the flats are represented by respective Advocates. They have preferred intervention applications. It is submitted that the accused have made false promises to them. Although promises were made from time to time, the accused have not made any attempt to fulfill the same. There are instances of double sale of flat premises. It is submitted that three other cases are registered against the Applicant and the co-accused. It is submitted that in this circumstances, custodial interrogation is required to be conducted to find out as to how the amount collected by the accused has been misappropriated.

7] I have perused the FIR and the other documents which are annexed to this application. It is apparent that the construction was carried out since 2014. Although huge amount of about 24 crores was collected by the accused from purchasers of the flats, the construction as promised has not been completed. The undertakings are filed by the Applicant before this Court stating that accused would make an endeavour to complete the project. However, the fact remains that despite promises being made from the year 2014, within stipulated time the project has not been completed. It is also alleged that there is double sale of the flat premises and there is diversification of the amount collected from the purchasers of the flat premises. The Applicant is the proprietress of the firm, which promised to construct the building. It appears that only 15% of the construction has been completed by the accused.

8] Considering the factual aspect involved in this matter, no case for grant of anticipatory bail is made out. Therefore, the Anticipatory Bail Application is rejected.

9] Learned counsel for the Applicant, at this stage, submits that the Applicant intends to challenge this order before the Hon'ble

Apex Court and hence, the interim protection granted by this Court on 22nd June, 2017, may be extended by period of four weeks.

10] Considering the fact that the protection was granted on 22nd June, 2017, the same is extended for the period of three weeks from today.

11] In view of disposal of the Anticipatory Bail Application, the intervention applications being Criminal Application Nos.1042 of 2017, 617 of 2018 and 1430 of 2018 do not survive and hence, stand disposed of.

[PRAKASH D. NAIK, J.]