

Anand

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

BAIL APPLICATION NO. 1697 OF 2019

Nirmal Gagubhai Chhadwa .Applicant

Vs.

The State of Maharashtra .Respondent

**WITH
CRIMINAL APPLICATION NO. 940 OF 2019
(For Intervention)
IN
BAIL APPLICATION NO. 1697 OF 2019**

Ranjit Jain .Intervenor

IN THE MATTER OF

Nirmal Gagubhai Chhadwa .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. Nilesh Tribhuvan a/w Mr. Burzin R. Bharucha, Advocate, for
the Applicant

Mr. P. H. Gaikwad, APP, for the Respondent – State

Mr. Rizwan Merchant i/b. Mr. Akshay P. Bafna, Advocate, for the
Intervenor

CORAM : REVATI MOHITE DERE, J.

DATE : 03.07.2019

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C. R. No. 121 of 2019 registered with the Chembur Police Station, Mumbai, for the alleged offences punishable under Sections 406 & 420 of the Indian Penal Code.

3. On the last date, learned counsel for the Applicant submitted that the Applicant without prejudice to his rights and contentions is ready to deposit an amount of Rs. 1,55,00,000/- in the Registry of this Court i. e. the amount mentioned in the FIR. In view of the statement made by the learned counsel for the Applicant, the matter was posted today to enable the Applicant to bring a Demand Draft of the said amount drawn in the name of the Registry.

4. Mr. Merchant, learned counsel for the Complainant / Intervenor opposes the Application. He submits that a perusal of

the FIR will show that the Applicant intended to cheat the Complainant / Intervenor right from the outset, when the amount of Rs. 1,55,00,000/- was paid by the Complainant / Intervenor to the Applicant, towards the costs of construction / development. He further submitted that despite the fact, that the Applicant did not have any title to the property, the Applicant misrepresented to the Complainant / Intervenor that he had the requisite title to the property. He further submitted that under the M. O. U., the Complainant / Intervenor was entitled to get 50% of the developed property i. e. 5 shops and 8 flats. He submits that the fact that the Applicant has cheated the Complainant / Intervenor, is writ large in the complaint and as such, the Application ought to be rejected.

5. Whether the alleged offences punishable under Sections 406 & 420 of the Indian Penal Code are made out or not, will be decided by the trial Court. Without going into the merits, considering the fact that the Applicant without prejudice to his rights and contentions, is ready to deposit an amount of Rs. 1,55,00,000/- in the Registry of this Court i. e. the amount

mentioned in the FIR, further detention of the Applicant is not warranted.

6. Accordingly, the Application is allowed and the Applicant is enlarged on bail on the following terms and conditions :-

ORDER

- (i) The Applicant – Nirmal Chhadwa be released on **cash bail** in the sum of Rs. 50,000/-, for a period of eight weeks;
- (ii) The Applicant shall within the said period of eight weeks, furnish P. R. Bond in the sum of Rs. 50,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall report to the investigating officer of the concerned police station on the first Monday of every month between 10.00 a. m. and 1.00 p. m. till the filing of charge-sheet;
- (iv) The Demand Draft of Rs. 1,55,00,000/- be deposited in the Registry of this Court before 05.07.2019.

7. The Application is allowed in the aforesaid terms and

is accordingly disposed of.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

9. In view of disposal of the Bail Application, the Intervention Application does not survive and the same stands disposed of accordingly.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)