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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1462 OF 2018

Bhaiji Ashok Maharaj ..Applicant.

V/s.

The State of Maharashtra ..Respondent.

Mr.Prashant S.Thombre for the applicant.

Mrs.S.S. Kaushik, APP for the respondent-State.

Mr.Bhoir, PSI, Khanbeshwar police station present.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 23, 2019

P.C.:-

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

2. In crime No.6/2018 for offence punishable under sections 420, 406, 34 of the Indian Penal Code and section 13A of Maharashtra Ownership of Flat Act, 1963 (MOFA) registered with Khandeshwar police station, District Raigad, the applicant is seeking pre-arrest bail.

3. The prosecution case is, the applicant a Director of Build My Construction Pvt. Ltd. floated a scheme at village Chiple (Bhokarpada) for development of the plot, wherein the complainant was offered Flat No.108, A-wing, first floor admeasuring 532 sq. ft. for a consideration of Rs.11,97,00/-, against which it is claimed that an amount Rs.21,25,000/- was already paid by the complainant.
4. Though the amount of consideration was received neither the property was developed nor the amount was returned. As such, the offence in question.
5. The applicant has submitted that when the scheme was floated he was neither the Director nor the amount was received by him.
6. Learned APP opposed the bail on the ground that custodial interrogation is necessary for recovery of the amount as the scheme is not taken to its logical end.
7. As per the copy of Form No.DIR-11, the applicant was appointed as a Director on June 20, 2014 and his resignation was on November 21, 2016.
8. That being so, when the complainant booked the flat

somewhere in 2013 and amount was paid by the complainant, it appears that the applicant was not the Director in the company.

9. There are subsequent developments as after the release of co-accused, either on regular bail or pre-arrest bail, the land in question was transferred to the prospective buyers who formed a co-operative housing society and the said society is now developing the plot in question with the assistance of another developer.

10. In the aforesaid backdrop, the requisite ingredients of the offence alleged against the present applicant are not made out. In view thereof, the ad-interim protection on August 6, 2018 stands confirmed.

11. The applicant shall attend the Investigating officer on as and when directed.

12. The applicant shall not influence the prosecution witnesses or tamper with the evidence.

13. The applicant shall co-operate with the investigating agency.

14. The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)