

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

ANTICIPATORY BAIL APPLICATION NO. 1804 OF 2019

Ashok Pralhad Vibhandik

...Applicant

Vs.

State of Maharashtra

...Respondent

- Mr. Pradeep M. Patil alongwith Smt. Revati A. Tatkare, Mr. Pravin B. Gole and Mr. Raturaj Deshmukgh, Advocate for the Applicant.
- Mr. S.H. Yadav, APP for the State.
- Ms. Jyoti Medhe, EOW, Pune City.

CORAM : SARANG V. KOTWAL, J.

DATE : 19th AUGUST, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with CR No. 457/19 registered at Sinhagad Police Station, Pune for the offences punishable under Sections 409, 420, 465, 467, 471, 474 read with Section 34 of the IPC and Sections 3(2), 4(1), 9,10,11,12 (6), 13(1) and 14 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.

2. The FIR is lodged on 26th June 2019 by one Rajanikant Deshpande. The informant was working with Zilla Parishad, Pune

and had retired on 31st May 2017. He has stated in his FIR that in the year 2013, one co-operative society by name 'Ashtagandh Gruhanirman Sahakari Sanstha' was formed and the present applicant was the chairman of the society. The said society was formed for providing houses to the government servants and public servants. The informant was told by the builder, Pankaj Gharat, that he was to construct a four storied building and the informant would get a flat admeasuring 500 sq. ft bearing flat no. 25 on fourth floor in the year 2016. The builder Pankaj Gharat and the present applicant forwarded a proposal for sanctioning loan to seventy five members. The proposal was sent on 10th December 2002. The State government has sanctioned initially Rupees Fourty Nine Lakhs Sixty Two Thousands Seven Hundred Fifty. The amount was deposited in the society's account. According to the informant, the applicant and builder kept the amount for themselves. The informant was told that the price of his flat was Rupees Two Lacs Seventy Seven Thousands Two Hundred. The State government had sanctioned loan of Rupees Two Lakhs Twenty Eight Thousand Nine Hundred Sixty to the informant. The

remaining amount was expected to be paid by the informant after construction was completed. According to the first informant, the government had obtained Rupees Fourty Lakhs Fourty Nine Thousands One Hundred Twenty including interest from the first informant. He has further stated in his FIR that he never get a possession of the flat and he is cheated with this amount. The informant held the present applicant as well as the builder responsible for this and hence lodged this FIR.

3. Heard, Mr. Pradeep Patil, learned counsel for the applicant as well as Mr. Yadav, learned APP for the State.

4. Learned counsel for the applicant submitted that the present applicant was working on the post of chairman of the society from 28th September 2003 to 21st August 2005.

5. Learned APP disputes this fact and states that the applicant was chairman of the society till the year 2007.

6. Learned counsel for the applicant submitted that like any other member, the present applicant had also obtained loan from the same scheme. The applicant had not personal interest. If the builder has defaulted in building construction within time, the

applicant could not be held responsible. The applicant is seventy five years of age and therefore his custodial interrogation is not necessary.

7. On the other hand, learned APP submitted that there are allegations in the FIR that the applicant alongwith the builder has cheated the informant. Therefore, to find out his exact role, his custodial interrogation is necessary.

8. I have considered these submissions. I have also perused the investigation papers in respect of the investigation carried out so far. As pointed out by the learned APP, the main allegations against the present applicant in the investigation papers appears to be that the society was duty bound to inform the members while obtaining loan and to point out the exact status of sanctioned loan and outstanding amount. The FIR itself shows that the informant was worried about the exact amount was sanctioned to him as loan and the amount which he has to be repaid, for which he cannot be held responsible. He rightly pointed out that if builder has committed default in building the construction for which present applicant cannot be held responsible. The investigation

carried out so far has not revealed anything to show that the present applicant is benefited directly or indirectly in the entire scheme. Therefore, at this stage, it is difficult to observe that the applicant has committed any offence at all.

9. Considering all these aspects, custodial interrogation of the applicant is not necessary. He deserves protection of anticipatory bail. Hence, the following order:-

ORDER

(I) In the event of his arrest in connection with C.R. No. 457/19 registered at Sinhagad Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)