

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2290 OF 2018

Kamlesh Sagarmal Jain

...Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Sunanda Kumbhat a/w Kunal Kumbhat, Advocates
for the applicant.

Mr. Tapan Thatte i/by Aditi M. Athawale, Advocate
for Intervenor in Appln. No. 926 of 2019.

Ms. Rutuja Aambekar, APP for the Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 12th December, 2019.

P.C. :

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

2. Applicant is apprehending arrest in Crime
No.I-112/2018 registered with Tardeo Police
Station for the offences punishable under Sections
406, 420, 465, 467, 468, 471 r/w 34 of Indian Penal
Code, 1860 and under Section 3, 4 of M.P.I.D. Act and

under Section 3, 4, 8 of MOFA.

3. Heard. Learned counsel for the applicant and intervenor. On 01.11.2018, interim protection was granted to the applicant on certain terms and conditions.

4. Complainant is a flat purchaser. Co-accused Mr. Patil is builder-promoter. It is alleged, the promoter neither constructed the building nor returned the consideration paid by the flat purchaser. On this set of allegations, the subject crime came to be registered.

5. Learned counsel for the intervenor submits, the land was purchased by the applicant and the co-accused in August, 2009; sought its change of user in February, 2011 and thereafter also sought development permission on 27.04.2011 from the local authority. Submission of the counsel for the intervenor is that the subsequent sale deed dated 01.08.2011 between the applicant and the co-accused

is a sham document.

6. I have perused the sale deed dated 01.08.2011, whereby applicant had sold his undivided share in the land and the development rights to the co-accused, Mr. Patil.

7. Learned counsel for the intervenor could not place anything on record to show that, the flat purchasers have paid consideration to the applicant after he relinquished his rights in favour of co-accused.

8. In view of the facts aforesaid, the evidence collected in the course of investigation prima-facie does not disclose the complicity of the applicant in the subject crime.

9. In view of the facts and the reasons stated, hence the following order :

ORDER

(i) In the event of arrest in Crime No. 112/2018, applicant shall be released on executing PR bond in the sum of Rs.50,000/- each with one or more sureties in the like amount.

(ii) Applicant shall attend the concerned police station, as and when called and undertakes to produce all such documents required and called for by the Investigating Officer.

(iii) The applicant shall cooperate with the Investigating Officer.

(iv) The applicant shall furnish the particulars of his residence and mobile number immediately to the concerned Police Station, within a week from today.

(v) Application is allowed and disposed of.

10. 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.

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

(SANDEEP. K. SHINDE, J.)