

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

**CRIMINAL BAIL APPLICATION NO.3057 OF 2018
WITH
CRIMINAL APPLICATION NO.195 OF 2019**

Mahendra Purushottam Patil

.. Applicant

Vs.

State of Maharashtra

.. Respondent

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Mr.G.T. Kanchanpure, Advocate for the Applicant.

Ms.Yogita Deshmukh, Advocate for the Applicant in APPP 195 of 2019.

Ms.A.A. Takalksar, APP for the Respondent – State.

PSI Pratap Bhos, EOW Palghar, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 8, 2019.

P.C. :

This is an application for bail in connection with C.R.No.112 of 2018, registered with Palghar Police Station, for the offences punishable under Section 406 and 420 of Indian Penal Code (“IPC”, for short) and under Section 3 of Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act, 1999 (“MPID Act”, for short).

2 Applicant was arrested on 25th May, 2018. The prosecution case is that accused being the Developer launched a Scheme in the name of "Oriental Enterprises", inviting the persons for booking flat in 17th buildings on the land owned by him at Moje Tembhode, Taluka and District-Palghar. It was represented that in the event the purchasers deposit the amount within specified time, the rate of flat would be Rs.650/-, per square feet and if the investor or purchaser booked flat after specified time, he has to pay rate of Rs.850/-, per square feet. If the purchaser booked flat at the end of the scheme, he has to pay at the rate of Rs.900/-, per square feet. The complainant is retired person. He was induced to deposit the amount of Rs.6,17,650/-, with the accused. There are several such persons who had invested the huge amount towards purchase of flat. It is alleged that construction was not carried out by the accused and apparently the flats were not handed over to the persons who had executed agreements with the applicant - accused.

3 Learned counsel for the applicant submitted that the applicant is in custody from the date of arrest. Investigation is completed and charge-sheet is filed. It is submitted that as per calculations made by the prosecution, the amount involved is to the tune of Rs.79,000/-. It is submitted that the properties of the

applicant are also attached by the police during the course of investigation. The provisions of MPID Act are not applicable in the present case. It is submitted that the trial may not commence immediately and further detention of the applicant is not necessary as he is already in custody for last about 7 to 8 months. Learned counsel for the applicant relied upon the decision of this Court in the case of **Suresh G. Motwani (Dr.) & Anr. Vs. State of Maharashtra & Anr.**¹.

4 Learned APP, however, submitted that there is sufficient evidence to show the involvement of the applicant in the crime. It is submitted that there are about 31 victims of the crime who had invested huge amount. The total amount which is misappropriated by the accused is to the tune of Rs.3,70,74,000/-. Learned APP submitted that instead of carrying out the construction, the property was sold to third person by the applicant. Learned counsel for the intervener also reiterated the submissions advanced by learned APP and in addition to that it is submitted that there is sufficient evidence to show that the applicant have induced several persons and have dishonestly collected the amount. It is submitted that the records would clearly indicate that the amount of more than Rs.3 crores was

1 2004(Supp.) Bom. C.R.521

collected by the applicant - accused. It is also submitted that the provisions of the MPID Act are applicable in the present case.

5 I have perused the documents. During the course of investigation, statements of several victims/witnesses were recorded by the police. On going through the record, it is apparent that false promises were made to the victims about the construction of flats and instead of carrying out any construction neither the flats were allotted to some third person and the promises, as made were not fulfilled. The question of applicability of the MPID provision would be considered at the appropriate stage, however, *prima facie*, evidence indicates that there was dishonest intention on the part of the applicant to induce victims to part with amount. Considering the nature of crime committed by the applicant and the evidence collected during the course of investigation I do not find that a case for bail is made out. Hence, Bail Application No.3057 of 2018, is rejected. Criminal Application No.195 of 2019, stands disposed of.

(PRAKASH D. NAIK, J.)