

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

ANTICIPATORY BAIL APPLICATION NO.2214 OF 2017

Shivprasad Gaya Prasad Sharma	.. Applicant
Vs.	
State of Maharashtra & Anr.	.. Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.2250 OF 2017**

Triyuginath Ramkishor Tripathi	.. Applicant
Vs.	
State of Maharashtra & Anr.	.. Respondents

Mr.Sandeep Mishra i/b. Mr.Prakash Mishra, Advocate for the Applicant.

Mr.S.R. Agarkar, APP for Respondent No.1-State.

Mrs.Meena Sonawane, Advocate for Respondent No.2.

CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 28, 2019.

P.C.

These are applications for anticipatory bail in connection with C.R. No.I-92 of 2015, investigated by Kolshewadi Police Station, Kalyan, District-Thane, for the offences punishable under Sections 420, 468, 504 and 506 of Indian Penal Code ("IPC", for short).

2 The First Information Report ("FIR", for short), is lodged by Smt.Bina A. Ghodke, aged about 60 years. It is the

prosecution case that the applicant accepted money from the first informant with an agreement/assurance to give her flat in the building, namely, Shivesh Park. That the applicant despite accepting the amount, did not give her the flat and when the first informant enquired about it, it was revealed to her that the said flat was sold by the applicant to third person.

3 During the pendency of these applications, both the parties have expressed their inclination to resolve the dispute. The applicant in ABA No.2250 of 2017 Triyuginath Ramkishor Tripathi is the director of M/s.Shambhu Realtor Pvt. Ltd. He has filed an affidavit dated 17th November, 2018. In the said affidavit, it is stated that the suit is pending between M/s.Jay Vighnaharta Co-op. Hsg. soc. Ltd. and M/s. Shambhu Realtor Pvt. Ltd. in respect of the arrears of the maintenance and other issues before the Joint Civil Judge, Senior Division, Thane. M/s. Shambhu Realtor Pvt. Ltd. had claimed more than 12,00,000/-, against M/s.Jai Vighnaharta Co-op. Housing Society Limited and that the society has raised wrong bill of Rs.1,90,000/-, in respect of the Flat No.B-4 of the said building. It is further stated that the applicant is ready and willing to execute and register the agreement in respect of the said flat in favour of the complainant.. It is also stated that the applicant is also ready and willing to clear the dues of the society in respect of the said flat and there would be no liability against the complainant to clear the said dues of the society till the

complainant occupies the premises. it is also stated that the applicant who is Director of M/s.Shambhu Realtor Pvt. Ltd. would take necessary steps for making said flat habitable after execution of the agreement

4 Learned counsel for the complainant submitted that there is a dispute with regards to the OC of the society. Learned counsel for the submits that the issue is pending before the National Commission vide Revision No.967 of 2017. On instructions, he submitted that M/s.Shambhu Realtor Pvt. Ltd. would be responsible for any issues with regards to the occupation certificate and would indemnify the complainant in that regard. Learned counsel for the Respondent - complainant submitted that in view of the aforesaid understanding the complainant would remain present before the concerned office of Sub Registrar for registration of the agreement. Learned counsel for the applicant submits that the concerned person for registration of the agreement on behalf of M/s.Shambhu Realtor Pvt. Ltd. would also remain present before the Sub-Registrar Kalyan for registration of the Agreement executed between the parties. It is submitted that the complainant had handed over the Demand Draft in favour of M/s.Shambhu Realtor Pvt. Ltd. in the sum of Rs.1,65,000/-. However, the said Demand Draft has not been encashed and the same has lapsed. The Demand Draft is handed over to the learned counsel appearing for the Respondent-Complainant. It is

submitted by the counsel for the Respondent that fresh Demand Draft in the sum of Rs.1,65,000/-, would be handed over to M/s.Shambhu Realtor Pvt. Ltd. on the date of registration of the Agreement. It is also stated that stamp duty for registration of Agreement would be paid by complainant.

5 The Parties would decide the date for registration of Agreement by consent and would register the agreement before the concerned authority. Considering the aforesaid circumstances, case for grant of anticipatory bail is made out.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application Nos.2214 and 2250 of 2017, are allowed;
- (ii) In the event of arrest of the applicants in connection with C.R.No.I-92 of 2015, registered with Kolshewadi Police Station, Kalyan, District-Thane, they be released on his furnishing P.R. Bond in the sum of Rs.25,000/-, each, with one or more sureties int eh like amount;
- (iii) Applicants shall adhere to their undertaking;
- (iv) Anticipatory Bail Applications stand disposed of.

(PRAKASH D. NAIK, J.)