

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

**ANTICIPATORY BAIL APPLICATION NO.946 OF 2020
[ABA/ST/6609/2020]**

1. Mithubhai K. May,
2. Shantiben Mithubhai May,
3. Chetan M. May, &
4. Nitin Joisor Applicants
Versus
1. The State of Maharashtra, &
2. Hiren Jayantilal Sachade. Respondents

Mr. Ashok Mundargi, Senior Advocate a/w. G.S. Bhatt, Ms. Pooja Bhatt, C.N. Kumar, for the Applicants.

Mr. S.H. Yadav, APP, for Respondent No.1-State.

Mr. Prashant Pandey a/w. Aiqan Memon, Irfan Unwala i/b. We Legal, for Respondent No.2.

PSI Mr. Shingate, Mulund Police Station, is present.

**CORAM : SARANG V. KOTWAL, J.
DATE : 22nd DECEMBER, 2020.**

P.C. :

1. The Applicants are seeking anticipatory bail in connection with M.E.C.R.No.7/2018 dated 12.5.2018 registered at Mulund Police Station, Mumbai under Sections 406, 420, 120-B read with 34 of the Indian Penal Code.

2. Heard Shri Ashok Mundargi, learned Senior Counsel for the Applicants, Shri S.H. Yadav, learned APP for Respondent No.1-State and Shri Prashant Pandey, learned Counsel for Respondent No.2.

3. The FIR is lodged by one Hiren Sachde. He has alleged that he was knowing one Navin Kothari and Jatin Kothari since many years. They are the owners of Bhakti Buildcon LLP. In the year 2011, they represented to the first informant that they were developing a project, inclusive of I.T. park and residential premises at Airoli, Navi Mumbai on a plot of land admeasuring 52,610 sq. mtrs. They represented to the informant that they were in need of an investor. They induced him to invest in that project. They told the informant that this project was being developed by them along with present Applicant No.1 as the land was in his name. The informant entered into a partnership agreement with Bhakti Buildcom LLP in April, 2011. He was to get 5% profit in the partnership firm. It is his case that he invested Rs.1,89,23,750/- in all. The allegations against the present

Applicants are that they were the Directors of M/s. Neva Technocity India Private Limited. This company was developing that project in partnership with Bhakti Buildcom LLP. The project was to be completed by the year 2016.

. The informant did not get any returns on his investment. In March, 2017, he came to know that the accused Navin Kothari, Jatin Kothari, Rajesh Ganatra, Navin Ganatra and Deepak Thakkar had sold the residential units in the project and had earned around Rs.65 Crores but nothing was paid to the first informant. He realized that he was cheated. On this basis, the FIR was lodged.

Submissions :

4. Shri Mundargi, learned Senior Counsel for the Applicant submitted that in the entire FIR, the allegations are directed towards the Partners of M/s. Bhakti Buildcom LLP. There was no privity of contract between the Applicants Company and the informant. He submitted that there was no inducement on their part.

5. Shri Prashant Pandey, learned Counsel for the first

informant, who is added as a party respondent No.2 to this Application has filed an affidavit dated 18.12.2020. The affidavit is taken on record. It is mentioned in the affidavit that the matter is settled and he has no objection if the anticipatory bail is granted to the Applicants.

6. Learned A.P.P., in view of this affidavit, does not have serious objection for grant of relief in this application.

7. Considering the submissions made by Shri Mundargi, it appears that there was no direct inducement offered by the present Applicants. As rightly pointed by Shri Mundargi, there was no privity of contract between the Applicants Company and the first informant.

8. In any case, the affidavit filed by Respondent No.2 shows that the first informant, in view of the settlement, has no objection if anticipatory bail is granted to the present Applicants. Custodial interrogation of the Applicants is not necessary. Therefore, I am inclined to grant the relief of anticipatory bail order to the Applicants.

9. Hence, the following order :

ORDER

(i) In the event of their arrest in connection with M.E.C.R.No.7/2018 registered with Mulund Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.50,000/- (Rupees Fifty Thousand Only) each with one or two sureties each in the like amount.

(ii) Anticipatory Bail Application stands disposed of accordingly.

Digitally
signed by
Pradeepkumar
P. Deshmane
Date:
2020.12.23
13:48:34
+0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)