IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2337 OF 2019

Rahul Ramprasad Chaturvedi Applicant
versus
The State of Maharashtra Respondent

Mr.Samir Vaidya i/by Vaibhav R. Gargade for applicant.
Mr.Y.M.Nakhwa, APP, for State.
Mr.Nitin Sejpal for intervenor.
Mr.Ravindra Wani, PI & IO, Narpoli Police Station, Thane.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th March 2020

PC :

1. This is an application for anticipatory bail in CR No.506 of 2019 registered with Narpoli Police Station, Bhiwandi, District Thane, for offences under Sections 420, 406, 177 of Indian Penal Code and under Sections 3,5,8 and 13 of Maharashtra Ownership Flat Act.

2. The case of prosecution is that the complainant along with his family members and other relatives had booked flats in the housing project Ganraj developed at the instance of applicant on Survey No.61, Hissa No.3. According to prosecution those flats were transferred in the name of informant, his family members and relatives by virtue of registered agreements being signed and executed before Sub-Registrar of Assurances, Bhiwandi on respective dates. According to informant the applicant along with other

partners were supposed to give possession of the flats in stipulated time or to pay interest at the rate of 3% to the informant and others. When complainant visited the construction site there was minimum construction of the slab for the first floor which contnued till date. He approached applicant and partners for possession. Accused started avoiding and threatened them of dire consequence. It is also alleged that the partners of developer including applicant sold flat No.202 of `C' wing to two persons.

3. Learned counsel for applicant submitted that the entire dispute is of civil nature. The father of complainant and other victims referred to in the FIR had executed these transactions. The amount was parted with an understanding that interest will be paid and in case interest is not paid, cancellation deed was to be executed between the parties. In respect to three premises cancellation deeds were executed. There are vouchers, receipts and other documents. The applicant is willing to co-operate with investigation. Entire matter pertains to documents. Custodial interrogation of applicant is not necessary. Learned counsel relied upon documents, such as, agreement to sale, memorandum of understanding, cancellation deeds etc. It is submitted that part payment was made towards interest. Dispute is commercial which is purely of civil nature. It has been converted into criminal prosecution. The offences alleged against applicant are not made out. The complaint is lodged after death of father of complainant.

4. Learned APP submitted that the applicant has been evading arrest since last several months. FIR was lodged on 29th August 2019. This application has been pending before this Court without

interim protection since October-2019. The co-accused has been arrested. The charge sheet has been filed against co-accused. It is further submitted that the applicant was repeatedly asked to produce original receipts which were not produced by him, which indicate that he is relying on forged documents. The accused had executed cancellation deeds only in respect to three premises. There are about 30 investors who had invested money in purchase of flats. There was no permission obtained from MMRDA for construction.

5. Learned counsel for intervenor also reiterated the submissions of learned APP. He submitted that signatures of father of complainant were forged by applicant and co-accused. The offence is of serious nature. Huge amount has been accepted by accused and the same was not refunded nor possession of premises was handed over.

6. I have perused the documents on record. From the FIR, the documents relied upon by applicant and investigation papers it is apparent that agreements were executed and huge amounts were paid by informant and others in 2012 and 2013. Possession of flats was not given nor amount was returned to them. The FIR and documents indicate that the amounts have been given by cheque, cash and balance consideration was agreed to be paid at the time of delivery of possession.

7. The co-accused has been arrested and charge sheet has been filed against said accused. However, the applicant could not be arrested as he has avoided the arrest. It is apparent that M/s.Siddivinayak Builders and Developers had accepted money from

informant and others being sale purchase transaction of different flat premises. It is not the case of accused that he had handed over possession of flat premises to the informant or refunded the amounts accepted by him. Although huge amount was collected from various persons, neither possession of premises was given nor amount was refunded. The transactions were executed in 2012 and 2013. Thus, it is clear that prima facie the accused have committed offence. Custodial interrogation of the applicant is necessary. Hence, no case for grant of anticipatory bail is made out. Criminal Anticipatory Bail Application No.2337 of 2019 is rejected. Interim Application No.1 of 2019 is disposed of.

(PRAKASH D. NAIK, J.)

MST