

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 278 OF 2020**

Lalit Rupchand Parekh And Anr. ...Applicants

Versus

The State of Maharashtra and Anr. ...Respondents

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Mr. G. S. Gole i/b. Mr. Ateet Shirodkar, Advocate for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent – State.
Mr. Aditya A., Advocate for the Respondent No. 2.
Mr. Nehal Desale, Advocate for the Interveners in ABA/298/2020.
PSI- R. K. Shaikh, Rabodi Police Station, Thane City.

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CORAM : PRAKASH D. NAIK, J.

DATE : 3rd MARCH, 2021.

PC :

1. This is an application for anticipatory bail in C.R. No. 44 of 2019, registered with Rabodi Police Station, for the offences punishable under Sections 406, 420, 506 r/w. 34 of IPC.

2. The complaint alleges that the accused had represented to the complainant that they would be developing the building and agreed to sell flat to him ad-measuring 1650 Sq.ft. Carpet area. Accused had accepted Rs.19,14,000/- from the complainant. Flat was not handedover to complainant. Similarly, there are two other aggrieved persons who are before Court, who had also booked flats with the applicant. It is alleged that in proceeding in the High Court status quo order was passed and inspite of the status quo order, the amount was accepted from the

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purchaser of flat.

3. Learned counsel for the applicant submitted that there is no element of cheating involved in this case. He had genuine intention to complete the project. The applicants were not party to the proceeding, where the status quo order was passed by this Court. The applicant had made attempt to commence the construction. Thane Municipal Corporation at one point of time, permitted applicants to go on with the construction. Subsequently they were told that in view of status quo order, unless the same is vacated, applicant cannot proceed with the construction. It is submitted that it was a SRA project and out of 325 persons occupying premises, 140 persons have vacated the premises. The applicant has been paying rent to them. It is only on account of unforeseen circumstances, the applicant could not proceed with the project. On instruction the applicant submitted that the three purchasers before the Court including the complainant, have deposited the total amount of Rs.50 Lakhs. The other purchaser had approached police and their statement has been recorded. He had indicated that he is willing to wait till the completion of building. The total amount invested by the three purchasers before the court is Rs.50 Lakhs. The applicant is willing to part this principle amount to the purchasers or the applicant is willing to deposit the amount of Rs.50 Lakhs in this

Court.

4. Learned APP submitted that the applicant had no intention to complete project. In spite of knowledge that the proceeding are pending in Court and status quo order was passed, the purchasers were induced to invest the amount. Similar submission is advanced by learned counsel for the interveners. It is submitted that the but for the representations made by the applicant the aggrieved persons would not have invested the amount. It is submitted that the applicant is not willing to pay the interest component. Hence, offer of paying principle amount, is not acceptable to them.

5. There is status quo order. It appears that the applicant was not party to the proceeding. It is submitted that the applicant would seek intervention in the civil proceeding arising out of Suit No. 36 of 1969.

6. It appears on account of status quo order, the applicant cannot proceed with construction. It is also submitted that several persons occupying the premises, had vacated the same for the purpose of the construction and rent is being paid to them. The aggrieved persons who are before Court, are not willing to accept the amount. However, applicant has volunteered to deposit the same in

Court to show his bonafide. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application No. 278 of 2020, is allowed;
- ii) In the event of arrest of applicant in C.R. No. 44 of 2019, registered with Rabodi Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.50,000/-(Rupees Fifty Thousand Only), with one or more sureties in the like amount;
- iii) The applicant shall deposit an amount of Rs.50,13,400/- within a one week from today in this Court;
- iv) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)