

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.646 OF 2021
ALONGWITH
INTEIRM APPLICATION NO.959 OF 2021**

Mohammad Farooq Maqbool Qureshi .. Applicant
Vs.
The State Of Maharashtra .. Respondent

Mr. Naville Deboo a/w Mr. Nitin Rai i/b
Mr. Divekar D. Rai Advocate for Applicant in ABA.
Mr. Prashant Aher, Advocate for Intervenor.
Mr. S. S. Pednekar, A.P.P. for the State-Respondent.
PSI Pawan S. Supnar, Nayanagar Police Station.

**CORAM : PRAKASH D. NAIK, J.
DATE : 16th MARCH, 2021**

PC.

1 This is an application for anticipatory bail in connection with C.R. No.57 of 2021 registered with Nayanagar Police Station, Mira Road, Thane for the offence punishable under Sections 406, 420, 120 (B), 506 read with Section 34 of the Indian Penal Code, 1860.

2 First Information Report was registered on 12th February 2021. It is alleged that the accused is acting in connivance with each other. The complainant parted amount for the purpose of purchase of flat. The accused had constructed three floors without obtaining requisite permission from the Corporation. The complainant had

purchased the flat on the fourth floor of the building named 'Rose' in 2006. The accused No.1 requested the members of society to allot him the building for redevelopment. The building was of four floors having 18 flats, 8 shops and therefore, the society has executed a development agreement. As per the agreement, the flat was to be allotted to the complainant. The accused No.1 executed an agreement of 40/60% partnership with the applicant and formed a new partnership firm namely New Micron Construction Company. According to applicant, redevelopment of the building was completed in the year 2012 and allotment of flats was started. According to informant, building was constructed upto 7 floor. The allotment letter for room No. 607 on 6th floor was given to informant. The accused No.3 is secretary of the society. The informant was informed that the application has been submitted for C.C. and O.C. of the 7th floor and believing their words, he started residing at flat No.607. After inquiry, it was learnt that the construction of the building is on the basis of permission for three and half floors but the building was constructed upto 7th floor.

3. The contention of the applicant is that agreement of redevelopment was executed between the society and accused. The

applicant has no concern with the construction. The applicant was financier of the project and he has not played any role to induce the informant to purchase the flat. The matter relates to documents and the applicant need not be subjected to custody. The accused No.1 has been arrested and he has been granted bail.

4. Learned APP and advocate for intervenor submitted that the accused No.1 has executed a joint development agreement with the applicant in 2009. Copy of the said agreement has been annexed to intervention application. Clause 1 of the said agreement indicates that both parties had agreed and confirmed that they are running the said partnership firm, namely, New Micron Construction Company and redevelopment of the building namely Rose Co-operative Housing Society on the old Survey No.508, New Survey No.101/16 plot No.55 situated at Bhayander, Taluka & District Thane . It was also pointed out that the applicant is one of the signatories to the agreement in respect of sale of flat.

5. Learned APP submitted that seven floors were constructed without obtaining permission from the Corporation. The permission was restricted to three and half floors.

6. The applicant's complicity is reflected from the documents. The applicant has contended he financier. Learned counsel for the intervenor submitted that the agreement executed by the applicant shows that he was a party to development agreement of the building. Considering the material on record, no case for grant of anticipatory bail is made out.

ORDER

- (i) Anticipatory Bail Application No.646 of 2021 is rejected.
- (ii) Interim Application is disposed of.

(PRAKASH D. NAIK, J.)