

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

**ANTICIPATORY BAIL APPLICATION NO.1133 OF 2020  
(STAMP NO.2058 OF 2020)**

Jayesh Tokershi Shah and Ors. .. Applicants

***Versus***

State of Maharashtra .. Respondent

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Dr.Samarth S. Karmarkar a/w. Ms.Supriyanka G. Maurya i/b.  
M/s.Karmarkar and Associates, Advocate for the Applicants.

Mr.S.S. Pedenkar, APP for the Respondent - State.

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**CORAM : PRAKASH D. NAIK, J.**

**DATED : FEBRUARY 10, 2021.**

**P.C. :**

Applicants are seeking anticipatory bail in connection with C.R.No.417 of 2019, registered with Kandivali Police Station, for the offence punishable under Section 420 read with 34 of Indian Penal Code.

2           The FIR lodged by complainant on 27<sup>th</sup> July, 2019. The first informant had booked a flat and made payment of Rs.19,48,030/-. Neither the flat was given to first informant nor the amount was returned to him. The applicants are concerned with M/s.Vidhi Realtors.

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3            Learned counsel for the applicants made a statement before this Court on 16<sup>th</sup> September, 2020, that the applicants have returned Rs.13,00,000/-, to the complainant and willing to return the balance amount of Rs.6,48,030/-. Interim protection was granted to applicants. On 21<sup>st</sup> October, 2020, the applicants stated that the balance amount was given to the complainant. Time was granted to file affidavit to show compliance. On the next date of hearing, learned APP submitted that there were 10 other victims who had purchased flats. On 18<sup>th</sup> December, 2020, it was submitted by applicants advocate that matter has proceeded before RERA and applicants have made payment more than one crore and majority victims are compensated. Affidavit was filed by the applicants before this Court stating that the applicants had returned the amount of Rs.13,00,000/- to the first informant and undertaken to deposit the balance amount of Rs.6,48,030/- on or before 21<sup>st</sup> October, 2020. The said amount of Rs.6,00,000/- was transferred to the complainant on 19<sup>th</sup> October, 2020, by R.T.G.S. and Rs.48,000/-, were transferred to the first informant by N.E.F.T. on 20<sup>th</sup> October, 2020. Thus, the amount of Rs.19,48,030/- was deposited in the account of the complainant. Since it was pointed out that there are other victims in this case, the applicant

filed additional affidavit dated 3<sup>rd</sup> February, 2021, wherein it is stated that at the instance of their firm a Demand Draft of Rs.1,00,50,000/- dated 16<sup>th</sup> August, 2019, was deposited in the office of Collector, Mumbai Suburban, and, thereafter, two cheques dated 8<sup>th</sup> November, 2019 and 11<sup>th</sup> November, 2019 were issued for aggregate sum of Rs.25,00,000/-, and deposited with Collector, Mumbai Suburban. Thus, a sum of Rs.1,25,50,000/-, was deposited by the applicant's firm. It is further stated that over and above aforesaid amount of Rs.1,00,00,000/- was given by the applicants' firm in three installments on 7<sup>th</sup> December, 2020, 15<sup>th</sup> January, 2021 and 19<sup>th</sup> January, 2021, directly to the purchasers. Thus, the applicants had paid an amount of Rs.2,25,50,000/-, vide proceedings pending before RERA Authority. Affidavits are taken on record and marked as "X" and "X1", for identification.

4            Thus, it appears that the claim of the informant has been cleared by the applicants and apart from that substantial amount has been deposited before the Collector. Hence, the interim protection granted to the applicants can be confirmed.

5            Hence, I pass the following order:

**:: ORDER ::**

- (i) Anticipatory Bail Application No.1133 of 2020, is allowed;
- (ii) The order dated 16<sup>th</sup> September, 2020, is confirmed;
- (iii) In the event of arrest of the applicants in connection with C.R.No.417 of 2019, registered with Kandivali Police Station, Mumbai, the applicants be released on bail on their executing P.R. Bond in the sum of Rs.25,000/-, each, with one or two sureties in the like amount;
- (iv) Applicant shall report the investigating officer, as and when called for;
- (v) Anticipatory Bail Application No.1133 of 2020, stands disposed of.

**(PRAKASH D. NAIK, J.)**