

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

CRIMINAL BAIL APPLICATION NO.3639 OF 2021

Ashish Virendra Mehta ..Applicant
Versus
The State of Maharashtra ..Respondent

**WITH
INTERIM APPLICATION (STAMP) NO.18210 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Keshaji Bhai Mor ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.
V/s
The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18209 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Vinod Jawde ..Intervenor

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.
V/s
The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18208 OF 2021**

**IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Naresh Laxman Chipolkar ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s

The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18207 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Naparam P. Choudhary ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s

The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18205 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Rahul Vimalraj Shah ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s

The State of Maharashtra and Anr. ..Respondents

WITH

**INTERIM APPLICATION (STAMP) NO.18201 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Premji M. Patel ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s

The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18206 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Kishor Gordhandas Chandrani ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s

The State of Maharashtra and Anr. ..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18204 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Devidas S. Raut ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s
The State of Maharashtra and Anr. ..Respondents

WITH
INTERIM APPLICATION (STAMP) NO.18203 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021

Govind Mavji Gothi ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s
The State of Maharashtra and Anr. ..Respondents

WITH
INTERIM APPLICATION (STAMP) NO.18202 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021

Narendra Surana ..Intervener

In the matter between

Mr. Ashish Virendra Mehta ...Applicant.

V/s
The State of Maharashtra and Anr. ..Respondents

WITH
INTERIM APPLICATION (STAMP) NO.18200 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021

Arjan Kanabhai Bhetariya ..Intervener

In the matter between

Mr. Ashish Virendra Mehta	...Applicant.
V/s	
The State of Maharashtra and Anr.	..Respondents

**WITH
INTERIM APPLICATION (STAMP) NO.18199 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Abhishek M. Jain	..Intervener
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In the matter between

Mr. Ashish Virendra Mehta	...Applicant.
V/s	
The State of Maharashtra and Anr.	..Respondents

**WITH
INTERIM APPLICATION NO.2784 OF 2021
IN
CRIMINAL BAIL APPLICATION NO.3639 OF 2021**

Rambabu Singh	..Intervener
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In the matter between

Mr. Ashish Virendra Mehta	...Applicant.
V/s	
The State of Maharashtra and Anr.	..Respondents

Mr. Aabad H. Ponda, Senior Advocate i/by Parinam Law Associates,
Advocate for the Applicant.

Mr. A. R. Kapadnis, APP for the Respondent – State.

Mr. Vilas Tambe, PSI, Dindoshi Police Station – present.

Mr. Shabaaz Pathan a/w Mr. Abhinav Waghmare and Mr. Sachin
Suware, Advocate for the Intervenor in IAST Nos.18210/2021,
18209/2021, 18208/2021, 18207/2021, 18206/2021, 18205/2021,

18204/2021 and 18201/2021.

Mr. Atul Bihari Dubey, Advocate for the Intervenor in IAST Nos.18203/2021, 18202/2021, 18200/2021 and 18199/2021.

Mr. Abhinandan Waghmare, Advocate for the Intervenor in IA No.2784/2021.

PSI Vilas Tambe, Dindoshi Police Station, present.

CORAM : NITIN W. SAMBRE, J.

DATE : 26th NOVEMBER, 2021

PC.

1] Applicant came to be chargesheeted for the offence punishable under Sections 420 read with Section 34 of the IPC and under Sections 13 and 14 of MOFA in Crime No. 201 of 2021. Applicant, after his arrested on 1/7/2021 was subjected to interrogation.

2] Prosecution story against the Applicant is, Applicant promised delivery of flats in December, 2018 with extension of one year, after having accepted consideration against the same, failed to deliver possession and as such, committed an offence of cheating.

3] Submissions of Mr. Ponda, learned Senior Counsel for the Applicant are, on the same set of facts two offences i.e. present one viz C.R. No.201 of 2021 and another viz C.R. No.56 of 2020 are registered. He would invite attention of this court to the fact that Applicant was on interim pre-arrest bail protection in C.R. No.56 of 2020. However, as he was arrested in present offence, said Application rendered infructuous. According to him, offence is

punishable with maximum imprisonment for seven years and the dispute is of civil nature. He submits that so as to show bonafides, Applicant is willing to deposit an amount of Rs 1,10,00,000/- with the Investigating Officer to take care of the monetary interest in the crime. Mr. Ponda further claims that what was promised to deliver and the period within which delivery would be made was well within the knowledge of the complainant. According to him but for complainant and purchasers who are in minority, others who have booked Flats are supporting cause of the Applicant as he has every intention to handover developed property to the purchasers. He would further claim that the alteration in the structure was within the knowledge of complainant.

4] While countering the submissions, learned APP would urge that during investigation, as reflected in the chargesheet, there is enough material available on record to infer that Applicant has prima facie committed offence punishable under Sections 420 of the Indian Penal Code.

5] Considered submissions.

6] It is claimed that Applicant has already completed structure of the building. However, finishing is kept on hold as there is no sanction. Fact remains that the said structure was developed by the Applicant without any commencement certificate or sanction from

the planning authority. Apart from above, there appears to be variance in what was agreed and what is constructed. Primarily, in absence of any sanction/approval from planning authority, the entire construction is illegal. Said illegal act of the Applicant is nothing less than his criminal intention to commit the offence as alleged. Failure on the part of the Applicant to secure sanction to the building plan and commencement certificate, illegal construction by the Applicant sufficiently speaks of his intention. It appears that Applicant has accepted the consideration and failed to deliver possession as was promised. The monetary liability is informed to be more than seven crores.

7] There appears to be sufficient material on record to prima facie infer involvement of the Applicant in the offence of cheating. That being so, in my opinion, at present no case for bail is made out. Application stands rejected. As a consequence of rejection of the Application, all pending Interim Applications taken out therein are also disposed of.

[NTIN W. SAMBRE, J.]