

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

ANTICIPATORY BAIL APPLICATION NO.2721 OF 2021

Mr. Rajesh Dhanji Savla and Ors.	..Applicants
Versus	
The State of Maharashtra	..Respondent

**WITH
INTERVENTION APPLICATION NO.2743 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.2721 OF 2021**

Sanjay Govind Batra	..Intervenor (Org. Complainant)
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IN THE MATTER BETWEEN

Mr. Rajesh Dhanji Savla and Ors.	..Applicants
Versus	
The State of Maharashtra	..Respondent

Mr. Prashant Patil i/by Mr. T. R. Patil, Advocate for the Applicants.
Ms. Sharmila S. Kaushik, APP for the Respondent – State.
Mr. Ashish Shukla, Advocate for the Intervenor.
Mr. Nandkishor Raghunath Bodare, PSI, Kandivali Police Station – present.

CORAM : NITIN W. SAMBRE, J.

DATE : 17th NOVEMBER, 2021

PC.

1. Applicants are seeking pre-arrest bail in Crime No.644 of 2021 registered with Kandivali Police Station for the offence punishable under Sections 420, 406, 465, 467, 468, 471, 120B r/w 34 of IPC.

2. The case of the prosecution against the applicants is, they have accepted consideration for transferring Flat Nos.706 and 707 and failed to hand over possession of the said property after having accepted said consideration resulting into the complainant approached the MahRERA authority.

3. I am informed that the member of the MahRERA has issued direction vide order dated 27th July, 2020 against the applicants whereby directing the applicants to hand over possession and also pay interest on delayed possession.

4. Counsel for the applicants informs that the said order passed by the MahRERA is subject matter of challenge in the writ petition which is pending before this Court. Further contentions are that a civil suit at the behest of the petitioners/applicants is pending adjudication on the file of City Civil Court, Borivali Divison, Dindoshi in relation to the very said property.

4. My attention is invited to the claim of the applicants that the complainants are not genuine flat purchasers but are investors and part of the amount claimed to have been refunded by the applicants to the complainants.

5. Learned APP would oppose the prayer.

6. The documents produced on record depicts that

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complainants have in fact received the part of the amount of investment, for which no convincing explanation is coming forward from the prosecution. However, the order passed by the MahRERA authority in favour of the complainant directing the applicants to hand over possession and also payment of interest have been questioned in writ petition which is pending in this Court since more than one year. I am informed that said writ petition is not listed before this Court. As such, once an order passed by the competent authority i.e. MahRERA directing the applicants to hand over possession, the claim that the complainants were the investors and part of the amount is refunded to them would be hardly any consequences.

7. That being so, no case for grant of bail is made out. However, applicants are at liberty to approach the Court below in case in pending suit or writ petition court passes an order in the interest of applicants.

8. As such, application stands rejected.

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[NITIN W. SAMBRE, J.]