

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2025 OF 2019

Omprakash Ashok Tiwari	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO. 511 OF 2020
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2025 OF 2019**

Rajini Ganesh Bhise & Ors.	... Intervenors
<u>In the matter between :-</u>	
Omprakash Ashok Tiwari	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO. 898 OF 2021
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2025 OF 2019**

Rajani Ganesh Bhise & Ors.	... Intervenors
<u>In the matter between :-</u>	
Omprakash Ashok Tiwari	... Applicant
V/s.	
The State of Maharashtra	... Respondent

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2070 OF 2019**

Sandeepkumar Jeetpratap Singh & Anr.	... Applicants
V/s.	
The State of Maharashtra	... Respondent

**WITH
INTERIM APPLICATION NO. 894 OF 2021
IN
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2070 OF 2019**

Rajani Ganesh Bhise & Ors.

... Intervenors

In the matter between :-

Sandeepkumar Jeetpratap Singh & Anr.

... Applicants

V/s.

The State of Maharashtra

... Respondent

WITH

INTERIM APPLICATION NO. 512 OF 2020

IN

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2070 OF 2019

Rajini Ganesh Bhise & Ors.

... Intervenors

In the matter between :-

Sandeepkumar Jeetpratap Singh & Anr.

... Applicants

V/s.

The State of Maharashtra

... Respondent

Mr. Salman Khan i/b Mr. Solkar Mohammed Amin Haroon for Applicant in A.B.A./2025/2019 and Respondent No.1 in I.A./898/2021.

Mr. Govind Ghogare for Intervener in I.A./511/2020 & I.A./512/2020 & Applicant in I.A./894/2021 & I.A./898/2021.

Mr. Abhishek Yende for Applicants in A.B.A./2070/2019.

Mrs. M. H. Mhatre and Mr. Y. M. Nakhawa, A.PPs for Respondent-State.

Mr. R. P. Bayes, Pl., EOW, Thane Rural.

CORAM : A.S. GADKARI, J.

DATE : 4th September 2021.

PC. :

1. Heard Mr. Khan, learned counsel for the Applicant in A.B.A./2025/2019 and Respondent No.1 in I.A./898/2021, Mr. Ghogare, learned counsel for the Intervener in I.A./511/2020 & I.A./512/2020 & Applicant in I.A./894/2021 & I.A./898/2021, Mr. Yende, learned counsel for the Applicants in A.B.A./2070/2019 and Mrs. Mhatre & Mr. Nakhawa, learned APPs for the State. Perused record.

2. At the time of grant of interim relief to the Applicants in A.B.A. No. 2025 of 2019 and A.B.A. No.2070 of 2019, the statement made by learned counsel appearing for the Applicants that, the Applicants, who are partners of M/s. Radhakrishna Enterprises' are ready to return the principal amount paid by the flat purchasers/shop keepers alongwith interest thereon, has been recorded in Order dated 25th September 2019.

On 18th October 2019, the Applicant Mr. Omprakash A. Tiwari had filed an Affidavit cum undertaking in this Court and had undertaken to deposit Rs.33,68,113/- by each of the Applicants in the Registry of this Court, on or before the stipulated dates mentioned in para No.2 of Order dated 18th October 2019.

3. The record further indicates that, each of the Applicant has deposited the said amount of Rs.33,68,113/- in the Registry of this Court within the stipulated period. By the said Order dated 18th October 2019, the respective flat purchasers were granted liberty to file appropriate Applications for withdrawal of the said amounts. Accordingly, four investors/flat purchasers have filed aforesaid two Interim Application Nos.894 of 2021 and 898 of 2021 for withdrawal of the said amount.

4. It is thus clear that, the Applicants have complied with Orders dated 25th September 2019 and 18th October 2019, passed earlier by this Court and have proved their bonafide by depositing the said amount in the Registry of

this Court within the stipulated period and therefore the Applicants can be protected by pre-arrest bail.

5. In view of the above, interim relief, granted by Order dated 25th September 2019 in A.B.A. No.2025 of 2019 and A.B.A. No.2070 of 2019 is hereby confirmed. However, the condition to attend the Investigating Officer, is waived.

6. Both A.B.A. No.2025 of 2019 and A.B.A. No.2070 of 2019 are allowed in the aforesaid terms.

7. In view of disposal of the A.B.A. No.2025 of 2019 and A.B.A. No.2070 of 2019, Interim Application Nos.511 of 2020 and 512 of 2020 for intervention, do not survive and are accordingly disposed off.

8. As noted earlier, in pursuance of the liberty granted by Order dated 18th October 2019, four investors/flat purchasers have filed the aforestated Interim Application Nos.894 of 2021 and 898 of 2021 for withdrawal of amount. The Applicants in A.B.A. No. 2025 of 2019 and A.B.A. No.2070 of 2019 have no objection for the Applicants/flat purchasers in Interim Application Nos.894 of 2021 and 898 of 2021 to withdraw the said amount deposited by the Applicants. Applicant Mr.Omprakash Tiwari in A.B.A. No.2025 of 2019, is personally present in the Court and gives his consent for withdrawal of said amount by the investors/flat purchasers. The Investigating Officer has also no serious objection in allowing the Applicants/flat purchasers

in Interim Application Nos.894 of 2021 and 898 of 2021 to permit them to withdraw the said amounts as it is a matter of fact on record that, the said four Applicants/flat purchasers have deposited the said amount as more specifically mentioned in the table on page No.10 of the Interim Application No.894 of 2021.

9. In view of the above, the Applicants/flat purchasers in Interim Application Nos.894 of 2021 and 898 of 2019 are permitted to withdraw the said amounts as mentioned in prayer clause (a) of the Interim Application No.894 of 2021, subject to condition that, the said Applicants/flat purchasers will furnish an undertaking and an indemnity bond in this Court stating therein that, in case the Trial Court or any other Court if directs, the said Applicants/flat purchasers will bring back the said amount without any demur. Interim Application No.894 of 2021 is accordingly allowed.

In view of relief granted in Interim Application No.894 of 2021, nothing survives in Interim Application No.898 of 2021 and is accordingly disposed off.

[A.S. GADKARI, J.]

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