

Diksha Rane

Digitally
signed by
DIKSHA
DINESH
RANE
Date:
2021.11.18
19:38:37
+0530

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

**ANTICIPATORY BAIL APPLICATION NO.2691 OF 2019
WITH
ANTICIPATORY BAIL APPLICATION NO.2693 OF 2019**

Raj Gopalan Ranganathan .. Applicant

vs.

The State of Maharashtra .. Respondent

Mr. Pritesh Burad a/w Ms. Reshma Mutha a/w Ms. Khushboo
Rajgor i/b. Pritesh Burad Associates for the Applicant.
Mr. N.B. Patil, APP for the State.
Mr. L.B. Rathod, API, EOW, Thane City.

CORAM : M.S.KARNIK, J.

DATE : NOVEMBER 17, 2021

P.C.:-

The applicants in ABA No.2676/2019 and ABA No. 2678/2019 (Hasmukh Patel), ABA No. 2842/2019 (Jignesh B. Maniyar), ABA No.2690/2019 and ABA No.2692/2019 (Rittu Wasnik) are the developers.

2. In brief, it is allegation of the flat purchasers that the developers had promised to the complainants – flat purchasers that they will hand over the possession of their flats in the building to be developed by the developers on or before December, 2017. The allegation is that the developers have failed to hand over the possession.

3. In FIR No.I-528/2019 on 11/11/2019 the applicant herein is arraigned as an accused along with the developers. FIR No.I-551/2019 is filed against the developers and the applicant on 25/11/2019 with the Mahatma Phule Police Station, Kalyan. The FIRs are at the instance of the two different set of flat purchasers who alleged cheating and criminal breach of trust. The offence is under Section 406 and 420 read with Section 34 of the Indian Penal Code and offence under Sections 3 and 4 of the Maharashtra Ownership of Flats Act, 1963.

4. This application was initially heard on 10/12/2019 when the following order came to be passed :

“Applicant is apprehending arrest in Crime Nos.I-528 of 2019 and I-551 of 2019 registered with M. Phule Police Station, Kalyan.

2 Applicant is employee of M/s. Patel Group and Companies. Complainants are the flat purchasers.

3 In Ant. Bail Application Nos.2676 of 2019 and 2690 of 2019, partners of M/s. Patel Group and Companies are granted interim protection.

4 In view of these facts, in the event of arrest of the applicant in Crime Nos.I-528 of 2019 and I-551 of 2019 registered with M. Phule Police Station, Kalyan, he shall be released on executing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

5 Applicant is directed to report to the Investigating Officer on 16th, 20th, 23rd 27th of December, 2019 and 3rd and 7th of January, 2020 between 11 a.m. to 1 noon and produce all such documents as required and called for by the Investigating Officer.

6 He shall give permanent residential address and mobile contact number to the Investigating Officer.

7 The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

Stand over to 21st January, 2020.”

5. It is pertinent to mention that this Court in its order dated 10/12/2019 referred to the order dated 6/12/2019 in ABA No. 2676/2019 filed by a co-accused which reads thus :

“Pending civil dispute (Arbitration Petition No.216 of 2019) filed and initiated by the flat purchasers, this Court on 14th March, 2019 appointed the Court Receiver. Order is at Page 154. Pending civil dispute, a group of flat purchasers filed the complaint and Crime No.I-0528 of 2019 came to be registered with the M. Phule Police Station, Kalyan under Sections 420, 406 read with Section 34 of the Indian Penal Code, 1860.

2 The learned counsel for the applicant has pointed out that the flat purchasers (complainants) have also

approached authorities under the RERA Act. Prima-facie, dispute is civil in nature.

3 In view of the facts aforesaid, in the event of arrest in Crime No.I-528 of 2019 and I-551 of 2019 registered with M. Phule Police Station, Kalyan, applicant in both the applications shall be released on their executing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount.

4. Applicant shall report to the Investigating Officer as and when called.

Stand over to 21st January, 2020.”

6. The applicant is the Power of Attorney and he executed the agreement at the behest of the developers in favour of the flat purchasers. This Court on 10/12/2019 directed the applicant to report to the investigating officer on 16th, 20th, 23rd, 27th of December, 2019 and 3rd and 7th of January, 2020 between 11.00 a.m. to 1 noon and produce all such documents as required as called for by the investigating officer.

7. Though learned counsel for the applicant submitted that the applicant has co-operated with the investigation, learned APP, however, submits that in respect of the FIRs which were initially registered with the Mahatma Phule police station, later came to be transferred to EOW for investigation. Learned APP submitted that the applicant must co-operate with the EOW.

8. Having regard to the nature of the allegations in the FIR which are mainly against the developers and considering that the applicant acted in his capacity as a Power of Attorney holder of the developers, in my view, custodial interrogation of the applicant is not necessary. Moreover, in the order dated 6/12/2019, while granting interim protection to one of the developer, this Court referred to the civil and arbitration proceedings initiated by the flat purchasers. This Court on 14/3/2019 appointed the Court Receiver. Learned counsel for the applicant submitted that even as per the order passed by the Real Estate (Regulation and Development) Act, 2016 , the time limit for completing the project is upto December 2021-2022. According to him the project is divided in two parts. The construction could not proceed in view of the appointment of the Court Receiver who is now in physical possession of the property.

9. On record are documents to indicate the medical condition of the applicant who is undergoing dialysis twice a week.

10. In these circumstances, considering that the interim protection is operating in favour of the applicant since 10/12/2019, I am inclined to grant pre-arrest bail to the applicant but on conditions mentioned herein below.

11. Hence the following order.

ORDER

1. Interim order dated 10/12/2019 passed by this Court is confirmed.
2. In the event of arrest of the applicant in Crime Nos.1528/2019 and I-551/2019 registered with Mahatma Phule Police Station, Kalyan, the applicant be released on bail executing PR bond of Rs.25,000/- in each complaint with one or more sureties in the like amount.
3. The applicant to report to the EOW on 22nd, 24th and 27th November, 2021 between 11.00 a.m. and 1.00 p.m. and as and when called.
4. The applicant shall furnish the details of his residential address and phone numbers to the investigating officer.
5. The applications are disposed of.

(M.S. KARNIK, J.)