

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 365 OF 2022

Rajendra Prakashlal Chordiya ...Applicant

Versus

State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 370 OF 2022

Shekhar Subhash Lunawat ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Sanjay Shinde, a/w Anjali Binjola, for the Applicant in
both ABAs.

Mr. Y. Y. Dabke, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 12th JULY, 2022

ORDER:-

1. These applications for pre-arrest bail are preferred in connection with CR No.394/2021, registered with Waivarhe Police Station, Nashik (Rural).

2. Smt. Jyoti Kedar (the first informant) lodged a report with the allegations that Vikas Kumavat – accused no.1 was the colleague of her husband Uday Kedar. Accused no.1 represented to the first informant and her husband that he would assist them in acquiring an immovable property at a reasonable price at Nashik. In the year 2011, Plot Nos.36 and

37 out of the land bearing Gat No.74/2 situated at village Hadola were shown to the first informant. A sum of Rs.9,00,000/- was paid towards part consideration to the applicant Raju Chordiya and Shekhar Subhash Lunawat. A false document purporting to be an Agreement for Sale was executed. The first informant and her husband were assured by the applicant and co-accused that Sale Deed would be executed within a period of six months. Later on, the applicants informed the husband of the first informant that a dispute has arisen in respect of the said land and the conveyance would be executed after the resolution of said dispute. The applicants neither executed the conveyance nor repaid the amount. They started avoiding the first informant. Hence the report.

3. When the applications were listed before the Court on 11th February, 2022 and 14th February, 2022, while granting interim pre-arrest bail this Court noted the submission that the dispute was predominantly of civil nature. The applicants were directed to cooperate with the investigation. The learned Counsel for the applicants submits that the applicants have cooperated with the investigation and appeared before the Investigating Officer as and when directed.

4. I have perused the allegations in the first information report. Evidently, the Agreement for Sale was executed on 18th July, 2011. The gravamen of indictment against the applicants is that despite accepting a part of the consideration, conveyance could not be executed. The FIR came to be lodged on 24th November, 2021, well after 10 years of the execution of the alleged Agreement for Sale. The time-lag of more than 10 years cannot be said to be immaterial or inconsequential. Failure to perform a promise by itself does not constitute deception so as to fall within the mischief of the offence punishable under Section 420 of the Penal Code. The dispute primarily and predominantly appears to be of civil nature.

5. Custodial interrogation does not seem to be warranted. A direction to the applicants to cooperate with the investigation would serve the purpose of unhampered investigation.

6. Hence, the following order.

: O R D E R :

(i) The applications stand allowed.

(ii) The order of interim pre-arrest bail qua Rajendra Prakashlal Chordiya (ABA/365/2022) is made absolute on the terms and conditions incorporated therein.

(iii) The order of interim pre-arrest bail qua Shekhar Subhash Lunawat (ABA/370/2022) is made absolute on the terms and conditions incorporated therein.

(iv) In addition, the applicants shall cooperate with the investigation and report to the Investigating Officer as and when directed.

(v) The applicants shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

[N. J. JAMADAR, J.]