

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

BAIL APPLICATION NO.778 OF 2022

Ashish Virendra Mehta

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Abad Ponda, senior counsel with Mr. Kiran Jain, Mr. Ish Jain, Mr. Duj Jain, Mr. Vinayak Siraskar, Ms Divisha Pandia and Mr. Shikhar Khandelwal i/b. M/s. Kiran Jain and Co. for the Applicant.

Mr. Shahbaz Khan S. Pathan for the Intervenor.

Mr. S.H. Yadav, APP for the Respondent -State.

Mr. D.B. Kawade, PI, Dindoshi police station, present.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st MARCH, 2022.

P.C.:-

1. This is an application filed under Section 439 of the Cr.P.C., by the Applicant, who is facing trial in Criminal Case No.2288 of 2021 pending on the file of Metropolitan Magistrate, Borivali, Mumbai for offences punishable under Sections 420 r/w. 34 of the IPC and Sections 13 and 14 of the Maharashtra Ownership of Flats Act, 1963.

2. The aforesaid case is registered pursuant to the FIR lodged by one Devidas Raut alleging that the Applicant, who is one of the Directors, along with other co-accused had entered into joint venture project to

develop Hazal Homes Building at Malad. The possession was to be delivered by December-2017. The first informant, who was one of the purchasers lodged the FIR alleging delayed possession. It is further stated that the project was not RERA registered. Permission was granted only to 18 flats whereas 70 flats are sold out. It was further stated that Urban One Realcon P. Ltd. has sold the 6 flats on double sale and Nine Globe Builders has sold 3 premises on double sale.

3. The Applicant had filed application under Section 438 of Cr.P.C. and the learned Sessions Judge had protected him by order dated 08/01/2021. During the pendency of the said application, the Applicant came to be arrested under Crime No.201 of 2021, which was registered pursuant to the complaint lodged by another purchaser in respect of the same project. It may be mentioned that the bail application filed by the Applicant bearing Bail Application No.3639 of 2021 was rejected by this Court. However, in Criminal Appeal No.140 of 2022 the Hon'ble Supreme Court released the Applicant on bail mainly on the ground that charge-sheet has been filed and custodial interrogation is not required. It is stated that even in the present case charge-sheet has been filed. The offence is punishable with maximum punishment for 7 years. Considering the large pendency, the trial is not likely to commence in the near future.

4. Mr. Ponda, learned senior counsel has made a statement that the Applicant would deposit an amount of Rs.20,00,000/-, the sale consideration, which is allegedly received by the Applicant for double sale of flats. Statement is accepted.

5. Since the Applicant has already been released on bail in the connected matter registered on the basis of the FIR lodged by another purchaser in respect of the same project, the Applicant in this case is also entitled for bail, particularly, considering the fact that the charge sheet has already been filed.

6. In the above facts and circumstances, the application is allowed on following terms and conditions:

- (i) The Applicant is ordered to be released on bail on furnishing bail bonds of Rs.1,00,000/- with one or two sureties in the like amount;
- (ii) The Applicant shall deposit Rs.20,00,000/- before the Trial Court within a period of four weeks from the date of release on bail.
- (iii) The Applicant shall not interfere with the witnesses or

tamper with the evidence in any manner;

- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

7. The Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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