

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.640 OF 2021

Vimal Govardhan Pipaliya ... Applicant

Vs.

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.2699 OF 2021

IN

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.640 OF 2021

Ankush Nivrutti Dongre ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Tapan Thatte i/b Mr.Shantanu Adkar for the Applicant.

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

Mr.Harshad Sathe for the Intervenor.

Mr.S.B. Bamane, PSI, Chakan Police Station.

CORAM : C.V. BHADANG, J.

**DATE : 2 FEBRUARY 2022
(Through Video Conferencing)**

P.C.

. The Applicant who is a Promoter and Builder, of Urja Cornerstone Building No.3, Chakan, Taluka-Khed, District-Pune, apprehending arrest in connection with the investigation of Crime No.157 of 2021 registered with Chakan Police Station, District-Pune under Section 420 and 406 of Indian Penal Code is seeking anticipatory bail.

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2. The aforesaid offence is registered on the basis of the complaint lodged by Ankush Nivrutti Dongre who is purchaser of a flat in Urja Cornerstone Building No.3 of the Applicant. The gravamen of the allegation is that although an amount of Rs.38,26,000/- has been paid apart from Rs.28 lakhs to the owner of the land on the say of Mr.Avinash Jagdale the then Project Manager, yet the flats have not been delivered.

3. I have heard the learned counsel for the parties. Perused record.

4. Upon hearing the learned counsel for the parties, it appears that the dispute is predominantly of a civil nature. There are two Memorandums of Understanding (MoU) executed between the parties. The second one being dated 27 February 2020 on which strong reliance is placed on behalf of the complainant/intervenor. Insofar as the first agreement is concerned it does appear that there was an agreement for sale of Unit No.507, 508 and 607 in Urja Cornerstone Building No.3 and since requisite permissions for developing the Urja Project proposed P + 11 was in process. The Applicant (party of the first part) had by way of an interim arrangement offered to secure investment of the complainant (party of the second part) by allotting Unit No.107, 108 and 110 in the Urja Cornerstone Building No.3. Even sofar as payment of Rs.28 lakhs paid to the

owner of the land at the instance of Mr.Jagdale the then Project Manager of the Applicant, is concerned. According to the informant, Mr.Jagdale in consideration of the said amount has transferred two one BHK flats in favour of the Applicant by registered deed situated at Nanekarwadi, Taluka-Khed, District-Pune as mentioned in the FIR.

5. Thus *prima facie* it is difficult to infer any intention to deceive since inception. In the first place there is a dispute to whether the agreement is for sale of six flats, as claimed by the informant, or three flats as claimed by the Applicant. Secondly, even so far as Rs.28 Lakhs paid to the land owner is concerned, Mr.Jagdale has transferred two flats in the name of the informant at Nanekarwadi, Taluka-Khed, District-Pune.

6. The learned counsel for the Applicant has submitted that the Applicant is ready and willing to execute the agreement for sale in respect of the three flats, if the informant comes forward. Admittedly, none of the parties had resorted to civil remedy, except that the complainant has filed a case before the Consumer Forum at Pune. The learned counsel for the Applicant on instructions states that the Applicant shall file an undertaking that he will not create any third party interest in respect of three flats namely Unit No.507, 508 and 607 in Urja Cornerstone Building No.3 until further orders.

7. There is an interim protection operating in favour of the Applicant since March 2021. In the result the following order is passed.

ORDER

(i) In the event of his arrest, in connection with investigation of Crime No.157 of 2021 of Chakan Police Station, District-Pune, the applicant shall be released on bail on executing a P.R. Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.

(ii) The applicant shall report to the investigating officer on 9, 10 and 11 February 2022 between 11.00 a.m. to 1.00 p.m. and as and when required by the investigating officer and shall co-operate with the investigating agency.

(iii) The applicant shall not tamper with the prosecution evidence/witnesses.

(iv) The Applicant shall file an undertaking as aforesaid before this Court within two weeks.

(v) In the event the undertaking is not filed the protection shall stand vacated.

(vi) The Criminal Application is disposed of in the aforesaid terms.

8. In view of disposal of the Criminal Anticipatory Bail Application, Interim Application does not survive and the same is disposed of accordingly.

C.V. BHADANG, J.