

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

**INTERIM APPLICATION NO.1517 OF 2020
IN
CRIMINAL APPEAL NO.1309 OF 2013**

Ram Sanjivan R. Singh & Anr. Applicants
versus
State of Maharashtra & Anr. Respondents
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- Mr. Manish N. Jain a/w Ritu G. Gahlot i/b. S. M. Jain,
Advocate for Applicants.
- Mr. P. H. Gaikwad, APP for the State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 17th OCTOBER, 2022**

P.C. :

1. This is a totally misconceived Application with a prayer
as follows :

“a. That the Flat No.101, 1st Floor, Building No.A-62,
Amisha Shantinagar CHS Ltd., Sector No.1
Shantinagar, Mira Road (E) Thane – 401 107, be
released and condition may be relaxed regarding
this flat as order dated 21 October 2013.”

2. The main person in this case is one Yogesh Karande. He
had filed Criminal Bail Application No.1309 of 2013, seeking

bail in connection with C.R.No.433 of 2012 registered with Mira Road Police Station u/s 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code. The allegations against him was that he had employed a modus operandi which was to purchase the flats, which were to be auctioned by various banks at Mumbai and Thane and to sell those flats to the investors. Various investors including the first informant had deposited the amount of Rs.3,48,80,000/- with Yogesh Karande and others. Ultimately they were duped. During the course of hearing of that bail application, certain submissions were made on behalf of Yogesh and he was granted bail on certain conditions. Clause (ii) of the said order dated 21/10/2013 passed in Criminal Bail Application No.1309 of 2013 mentions that the Applicant had to repay the amount paid by all the investors involved in the said offence within a period of three months from the date of his release. He was also directed to attend the Mira Road Police Station every day for a period of three months. Importantly, the said Applicant Yogesh was directed not to create any third party interest or right in the property which he had purchased and

which had been seized by the police. The present Applicants in this application claims to be the bonafide purchasers of flat No.101, 1st floor, Building No.A-62, Amisha Shanti CHS Ltd., Mira Road (E), Thane. They had purchased it from flat owners Hardik Vijay Seth and Zubair Ahmed Alimulla Khan.

3. The affidavit filed by the investigating agency mentions that the said flat was sold by Yogesh to Hardik Seth and Zubair Khan vide sale deed No.11907 of 2017 on 03/08/2017. That was in clear violation of the condition imposed by this Court while granting bail to Yogesh. Subsequently, Hardik and Zubair sold the same flat to the present Applicant. This property was one of the subject matters of the bail order and the offence.
4. Now said Yogesh is not available and even proclamation is issued against him. He has breached all the conditions imposed on him while granting bail.
5. Learned counsel for the Applicant prays for grant of this application and the prayer is for modification of the

condition imposed in the order putting restrictions on sale of property by Yogesh.

6. I am afraid that such order cannot be passed and the condition imposed while granting bail cannot be retrospectively cancelled, particularly when the said Applicant Yogesh has breached all the conditions and today proclamation is issued against him. In this view of the matter, no relief can be granted in the application. The application is therefore dismissed.

7. However, there is a possibility that the Applicants themselves could be the victim of the circumstances and they may have unknowingly entered into such transaction. In that view, all other avenues that the Applicants can legally adopt, are specifically left open. They are at liberty to adopt such proceedings as are permissible in law to protect their interest. With these observations the application is disposed of.

(SARANG V. KOTWAL, J.)