

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

CRIMINAL BAIL APPLICATION NO. 2230 OF 2022

Pramod Vishwanath Dodke ...Applicant
Versus
The State Of Maharashtra ...Respondent

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Mr. Subhash Jha a/w Mr. Siddharth Jha a/w Mr. Dwivendra Dubey i/by
Law Global, Advocate for the Applicant.

Mr. N.B.Patil, APP for the Respondent – State.

Mr. Sagar Bhosale (PSI), Bharti Vidyapeeth Police Station, Pune City,
Present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th OCTOBER, 2022.

PER COURT:

1. The applicant is seeking bail in C.R. No.230 of 2022 on 07.04.2022 registered with Bharti Vidyapeeth Police Station, Pune City, for offences punishable under Sections 406 & 420 r/w Section 34 of Indian Penal Code (for short 'IPC')

2. The First Information Report (for short 'FIR') was registered on 07.04.2022. It was alleged that the complainant was in requirement of residential premises for her son. She visited the construction site. The construction was conducted on the land belonging to the accused. The site was developed in partnership with the applicant/accused and other person. The complainant

decided to purchase the flat located at Mumbai-Pune Highway, Ambegaon, Pune. The complainant was shown the entire site by the applicant. The complainant was interested in booking the flat viz. Flat No.1501 for an amount of Rs.51,00,000/-. The complainant parted an amount of Rs.2,00,000/- in cash to the accused and thereafter Rs.10,50,000/- by RTGS. Subsequently, the amount of Rs.6,50,000/- and Rs.5,00,000/- was also transferred to the accused. The total amount parted at the instance of the complainant was to the tune of Rs.37,00,000/- The complainant also handed over an amount of Rs.2,00,000/- to the wife of the applicant. MOU was signed on 02.03.2019 with the applicant on behalf of one Nandkishore Srikant Rathi, the owner of Tara Construction Company. The accused did not get permission for 18-storey building. Thereafter, lock-down was declared on account of pandemic. The complainant inquired about the status of possession of flat and she was informed that, flat No.1301 is allotted to her and keys were handed over to her. On visiting the premises, it was found that, it was allotted to some other person. The complainant was promised that some other flat will be allotted to her, however, the promises were not fulfilled, hence FIR was registered.

3. The applicant preferred an application for bail before the Court of Session. The application was rejected by Order dated 07.06.2022.

4. Learned Advocate for the applicant submitted that the applicant is in custody from 30.06.2022. Investigation is completed and charge-sheet is filed. The applicant cannot be detained in custody for indefinite period. At the time of developing the land proposal, it was agreed between M/s. Tara Constructions that the accused will have 20% shares from the revenue generated from sale of flats. Development agreement dated 19.01.2005 was executed. The applicant sold his shares of flats in the project. It is not the case of applicant that he has no right, title or interest to sell the flats. There was no misrepresentation made to the complainant or any other person. Disputes and differences arose between M/s. Tara Constructions and the applicant. Possession of shares of flats belonging to the applicant was not given by M/s. Tara Constructions. With bonafide intention the second development agreement was executed on 03.06.2020. M/s. Tara Constructions did not give possession of flats to the applicant. In these circumstances, the applicant was unable to meet his promise made to flat purchasers. The applicant is ready to handover the possession of flats to respective owners. The applicant had also

informed the complainant that he is willing to pay the amount in tranches. The dispute is purely of civil nature. There is no supporting documents for cash payments made by the complainant. The dispute cannot be resolved by keeping the applicant in custody.

5. Learned A.P.P submitted that the applicant/accused has failed to perform his promise. Amount was accepted towards sale of flat. The possession of flat was handed over to the complainant and others, although consideration was received. Double sale was effected. The applicant has not returned the amount to the complainant.

6. From the factual aspects as stated herein above it appears that there is dispute between the applicant and his counter part. The investigation is completed and charge-sheet is filed. The offence is triable by the Magistrate. The applicant is in custody from 30.06.2022. Further detention is not necessary. On certain terms and conditions bail can be granted to the applicant.

ORDER

- i. Criminal Bail Application No.2230 of 2022 is allowed;
- ii. The applicant is directed to be released on bail in connection with C.R. No. 230 of 2022 registered with Bharti Vidyapeeth Police Station, Dist. Pune on executing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount;

- iii. The applicant is permitted to furnish cash bail in the sum of Rs.50,000/- for a period of eight weeks in lieu of surety.
- iv. The applicant shall report concerned Police Station once in a month on first Saturday of the month between 11:00 a.m. to 1:00 p.m. for a period of three months and thereafter, once in six months on first Saturday of the month between 11:00 a.m. to 1:00 p.m till further order;
- v. The applicant shall submit an undertaking before trial Court at the time of execution of bail bond that in the event of double sale of flat, the applicant would secure rights of both parties. Possession of flat booked by all purchasers would be provided to them expeditiously. In the event purchasers claim refund of amount towards payment made by them for purchase of flats, the same would be refunded to them by applicant within 12 weeks from the date of claim.
- vi. Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)