

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

CRIMINAL BAIL APPLICATION NO. 2604 OF 2022

Pramod Vishwanath Dodke ...Applicant
Versus
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.51 of 2022 registered with Bharti Vidyapeeth Police Station, Dist. Pune, for offences under Sections 406 & 420 of Indian Penal Code.

2. The FIR was registered on 30.01.2022. The complainant has alleged that, he was in search of residential premises and visited the site of Tara West Brook near Mumbai Highway at Ambegaon. He learnt that the site belongs to M/s. Tara Constructions and some of the flats constructed would be owned by the land owner Pramod Dodke and Rajendra Bibve. The complainant approached sales manager Shirish Dhoot. He was shown the site. He liked flat

No.B/401. He was informed that, the said flat is within the share of Pramod Dodke. The complainant met applicant. It was agreed that the flat would be sold to the complainant for consideration of Rs.56,00,000/-. It was also agreed that the complainant should give an advance consideration of Rs.25,00,000/-. The complainant parted an amount of Rs.25,00,000/- by way of cheques. Agreement was executed between him and Pramod Dodke (Applicant). The complainant also handed over an amount of Rs.2,50,000/- towards stamp duty. The total amount paid by the complainant was Rs.27.57 Lakhs. The possession of the flat was to be given to the complainant in September – 2019. The other persons, who had purchased the flat had occupied the premises. However, the complainant did not get the possession of flat. The applicant kept on assuring that the possession would given to him. The complainant then realized that several persons did not get possession of flats. In November – 2020, the applicant informed the complainant that he would return the amount to him as he is not in a position to give possession of flats. The applicant returned the amount of Rs.2,50,000/- to the complainant which were paid by him towards stamp duty. Subsequently, the complainant learnt that the flat No.B/401 was sold to another person. The FIR was lodged.

3. The applicant was arrested on 30.01.2022. Investigation was completed and charge-sheet was filed.

4. The applicant preferred an application for bail before the Court of Sessions. The application was rejected by Order dated 23.02.2022. Thereafter, the applicant preferred another application for bail which was rejected by Order dated 07.06.2022.

5. Learned Advocate for the applicant submitted that the applicant is in custody from the date of arrest. 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.

6. 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.

7. 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 offences are 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.2604 of 2022 is allowed;

ii. The applicant is directed to be released on bail in connection with C.R. No. 51 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.)