

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

CRIMINAL BAIL APPLICATION NO.4022 OF 2021

Vasant Janardhan Aher ...Applicant

Vs.

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.3336 OF 2021

IN

CRIMINAL BAIL APPLICATION NO.4022 OF 2021

Pratibha Prakash Sakpal ...Applicant

Vs.

The State of Maharashtra ... Respondent

Mr. Samir Vaidya for the Applicant.

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

Mr. V.V., Mohite for intervenor.

CORAM : C.V. BHADANG, J.

RESERVED ON : 25 MARCH 2022

PRONOUNCED ON : 29 MARCH 2022

P.C.

. By this application, the Applicant (accused No.1) is seeking release on bail. The Applicant along with co-accused has been chargesheeted for the offence punishable under Section 448, 420, 380 read with Section 34 of IPC in Crime No. 539 of 2019 of Police Station Hinjwadi, District Pune.

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2. The aforesaid crime is registered on the basis of the complaint dated 12.04.2019 lodged by Pratibha Sakpal. According to the informant in the year 2004 during the lifetime of her husband, she purchased Flat No. 101, ground floor, Triveni Co-op. Housing Society, at Sector 23, Jui Nagar, New Bombay. Her husband expired in the year 2009. When she made an attempt to get the occupation certificate from the society, it was disclosed that the construction of the flat was unauthorised inasmuch as the sanctioned plan was showing a shop and a WC and bathroom at the said place. The builder by converting the same and constructing a hall had sold the same as Flat No.101. It appears that subsequently the construction of the hall was demolished by the Corporation being unauthorised and an offence was registered against the Applicant under the Maharashtra Regional and Town Planning Act. The informant also learnt that the Applicant has cheated several others in a similar manner.

3. A complaint was made before the District Forum, where the Applicant agreed to provide the informant with Flat No. 402, Neha Apartment, Ganesh Colony at Marunji, District Pune in lieu of flat purchased by the informant. Accordingly a notarised agreement was entered into and possession of flat No. 402 was handed over. Subsequently, on the representation made by the wife and the daughter of the Applicant that they are in

financial difficulty, they had offered to sell flat Nos. 101 and 201 at Marunji, Pune for an amount of Rs.15 lakhs. The informant accordingly paid Rs. 3 lakhs by cheques and Rs.6 lakhs by cash, total Rs.9 lakhs and possession of the flat Nos. 101 and 201 was handed over to the informant, where she was residing along with the family. It is the material case that in August 2018, the informant had gone to New Bombay to look after her son who was ailing. On 28.09.2018, when the elder son of the informant went to Pune at Marunji flat, he found that the lock of all the three flats have been changed and they were in possession of the third parties, who were claiming to have purchased these flats. An attempt was made to contact the Applicant to no avail. The complaint came to be lodged in which the investigation is complete and the chargesheet is filed.

4. The learned Sessions Judge has refused to release the Applicant on bail.

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

6. It was not disputed during the course of the argument at bar that flat No. 101 at Sector 23 was demolished being unauthorised and in lieu thereof flat No. 402 was offered and given to the informant. She also claims to have purchased flat

Nos. 101 and 201 at Marunji, Pune. From all these 3 flats she claims to have been forcibly dispossessed. This application was adjourned as a submission was made on behalf of the Applicant that Applicant would find and locate another flat complete in all respect having similar specifications and with proper occupation certificate in place, which then could be offered to the complainant. The Applicant has not come up with any such flat although a statement to that effect was made. The learned Sessions Judge has also noticed that the Applicant had not surrendered in pursuance of the order passed by this court. It appears that even the flats at Marunji are said to have been sold by the Applicant to the third parties, thereby dispossessing the informant. All these circumstances do not entitle the Applicant to be released on bail.

7. The criminal application is accordingly rejected.

8. The interim application for intervention stands disposed of.

C.V. BHADANG, J.