

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

**ANTICIPATORY BAIL APPLICATION NO.2777 OF 2021
WITH
INTERIM APPLICATION NO.1262 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2777 OF 2021**

Nirman Construction through its proprietor Abhijeet Ramnath Gunjal & Ors.	...Applicants
Versus	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2779 OF 2021
WITH
INTERIM APPLICATION NO.1264 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2779 OF 2021**

Nirman Construction through its proprietor Abhijeet Ramnath Gunjal & Ors.	...Applicants
Versus	
The State of Maharashtra	...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2883 OF 2021
WITH
INTERIM APPLICATION NO.1263 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO. 2883 OF 2021**

Ravindra Sukhdev Nakhate	... Applicant
Vs	
The State of Maharashtra	.. Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO.2884 OF 2021
WITH**

**INTERIM APPLICATION NO.1260 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2884 OF 2021**

Jayashree Sahebrao Alkunte	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sujay H. Gangal i/b. Adv. Ravi Shinde for the Applicants in All ABAs.

Mr. Virendra Pethe i/b. Adv. Mandar Limaye for the Intervenor.

Mr. A. A. Palkar, APP for Respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATED : 13th SEPTEMBER, 2022

P.C.:

1. Heard.
2. The applicants are seeking pre-arrest bail in crime no. 166 of 2021 registered with Kotharud police station for the offence punishable under sections 323, 355, 384, 406, 410, 411, 414, 417, 420, 447, 464, 465, 468, 474, 120B, 504, 506(2) r/w. 34 of IPC and under sections 3 & 4 of MPID Act.
3. The case of the complainant is, deceased Ramnath was having friendly terms with the complainant and accordingly after receiving an amount of Rs.40,00,000/- agreement of sale was executed vide document no. 6859 of 2014 in relation to the flat no. C-601 in Audumbar project. It is claimed that neither the

amount is refunded nor the possession of the said flat was handed over to the complainant.

4. Based on the aforesaid allegations pursuant to order passed by the Magistrate in exercise of powers u/s 156 of the Cr.P.C. the aforesaid offence came to be registered.

5. The contentions of the counsel for the applicants are nature of dispute alleged in the complaint is civil/contractual and the complainant has alternate remedy in the matter to which they have already taken recourse to. He has invited my attention to the order passed by MAHARERA on 03/03/2018 at the behest of the complainant.

6. As such, according to him the custodial interrogation of the applicants is not warranted.

7. Learned APP assisted by learned counsel for the complainant would urge that the necessary ingredients of the offence alleged particularly criminal breach of trust, cheating, criminal conspiracy can be inferred from the allegations in the FIR. It is further claimed that since 3rd party interest is sought to be created by handing over the possession of the property, it is necessary to interrogate the applicants.

8. I have appreciated the aforesaid submissions.

9. The criminal complainant u/s 156 of the Cr.P.C. against the applicants was based on the aforesaid registered document dated 25/07/2014 in which it is specifically mentioned an amount of Rs.49,16,000/- was received from the complainant.

10. The fact remains that based on the aforesaid document the complainant has approached MAHARERA authority and order dated 03/03/2018 is already delivered in favour of the complainant. It is always open for the complainant to execute the said order against the applicants.

11. In the aforesaid background, it cannot be said that the applicants' custodial interrogation in the aforesaid crime is required, particularly when the complainant has taken recourse to an alternate remedy based on the contractual obligations.

12. In the aforesaid background, the ad-interim protection ordered by this Court stands confirmed.

13. In the event of arrest of applicants in crime no. 166 of 2021 registered with Kotharud police station for the offence punishable under sections 323, 355, 384, 406, 410, 411, 414, 417, 420, 447, 464, 465, 468, 474, 120B, 504, 506(2) r/w. 34 of IPC and under sections 3 & 4 of MPID Act applicants be released on bail on furnishing P.R. bond in the sum of Rs 25,000/- each with one or

more sureties in the like amount.

14. The applicants shall attend the Investigating Officer on 21st, 22nd & 23rd September, 2022 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.

15. The applicants shall neither tamper with evidence nor influence the witnesses in any way.

16. It is clarified that proceedings for execution of MAHARERA order if taken out by the complainant, the same be decided on its own merits without being influenced by the disposal of the present applications.

17. The applications stand disposed of.

18. In view of disposal of anticipatory bail applications, interim applications also stand disposed of.

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(NITIN W. SAMBRE, J.)