

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018**

Raju Sidhya Sulire .. Applicant

Versus

The State of Maharashtra .. Respondent

**WITH
INTERIM APPLICATION NO.222 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018**

Pingalprasad Pancham Gautam & .. Applicants
Anr.

Versus

The State of Maharashtra & Anr. .. Respondents

**WITH
INTERIM APPLICATION NO.307 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018**

Khushboo Govind Sharma .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

WITH
CRIMINAL APPLICATION NO.1034 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Pradip Mukherji .. Applicant

Versus

The State of Maharashtra & Ors. .. Respondents

WITH
CRIMINAL APPLICATION NO.559 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Mukesh Mehta & Ors. .. Applicants

Versus

The State of Maharashtra .. Respondents

WITH
CRIMINAL APPLICATION NO.1009 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Rakesh Yadav .. Applicant

Versus

The State of Maharashtra & Ors. .. Respondents

WITH
INTERIM APPLICATION NO.527 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Charu Ranjit Sukhija .. Applicant

Versus

The State of Maharashtra .. Respondents

WITH
INTERIM APPLICATION NO.533 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Daman Singh Bist .. Applicant

Versus

The State of Maharashtra & Ors. .. Respondents

WITH
INTERIM APPLICATION NO.532 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Kamal T. Rawal .. Applicant

Versus

The State of Maharashtra & Ors. .. Respondents

WITH
INTERIM APPLICATION NO.416 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Ali Asgar N Modi .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO.934 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Imran Suleman Khan .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO.932 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Sachin Digambar Ekawade .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO.933 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Sameer Abdul Rehman Kachhi .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
CRIMINAL APPLICATION NO.52 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Abdul Hamid Peer Mohd. Shaikh .. Applicant

Versus

The State of Maharashtra & Anr. .. Respondents

WITH
CRIMINAL APPLICATION NO.1300 OF 2018
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Sidhesh Pai & Ors. .. Applicants

Versus

The State of Maharashtra & Anr. .. Respondents

WITH
CRIMINAL APPLICATION NO.109 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Shameem Ahemed Shaikh .. Applicant

Versus

The State of Maharashtra .. Respondent

WITH
CRIMINAL APPLICATION NO.1405 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.1910 OF 2018

Fehmida Shaukat Shaikh & Ors. .. Applicants

Versus

The State of Maharashtra & Anr. .. Respondents

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Mr.Raju D. Suryawanshi for the Applicant.

Mr.Samadhan Kashid i/b Mr.Makrand Kale for the Intervenor
in IA/932/19, IA/933/19 and IA/934/19.

Mr.Aditya Mithe with Mr.Sachin Agawane for the Intervenor in
APPP/1300/18.

Mr.C.K.Thakkar for the Intervenor in APPP/559/19.

Mr.Mikdad Aziz Zummenwala for the Intervenor in IA/416/19.

Ms.Anamika Malhotra, A.P.P. for the State/Respondent.

Ms.Sandhya S. Pawar, PSI, EOW, Mira Road, present.

Mr.M.H.Choudhary with Mr.Hafeez Coatwala i/b Sumaira Legal
Association for the Original Complainant.

CORAM: BHARATI DANGRE, J.
DATED : 20th JUNE, 2022

P.C:-

1. By an order dated 08/08/2019, this Court, while continuing the ad-interim relief in favour of the applicant, recorded certain conditions, which would bind him. These conditions were based on the statement of the applicant, given to this Court in form of an undertaking, including certain oral statements, being made on instructions of the applicant, who was present in the Court. Thereafter, time and again, the applicant continued to file several affidavits-cum-undertakings, assuring the Court that he would be governed by the said undertakings.

In the affidavit dated 28/11/2018, he specifically gave the name of the four flat purchasers and assured that the amount would be paid to them on or before the dates, which were mentioned in the affidavit. He also assured that as far as the investor Mr.Mukesh Mehta is concerned, he would repay the amount alongwith interest. His further affidavit dated 25/06/2019 specifically assure the Court that he wish to honour his commitment and settle the matter with Mr.Mukesh Mehta and Ms.Komal Punjabi by undertaking that he shall

handover the peaceful and vacant possession, free from all encumbrances and also execute all necessary documents to that effect. In one more affidavit-cum-undertaking dated 25/06/2019, he undertook that he shall hand over possession of the flats to the respective flat purchasers within 18 months and filed list of the customers alongwith the said affidavit. Several affidavits of the same date, specifically mention allotment of flats to distinct investors and execution of necessary documents in their favour within a period stipulated.

2. On 17/07/2019, the applicant once again filed a detailed affidavit, running into 32 pages, giving details of settlement against various customers by specifically naming them with reference to their numbers in the investors' list. Needless to state that in view of these undertakings by the applicant, with an understanding that they shall be abided by, the interim relief in favour of the applicant was continued from time to time. At some point of time and to be precise on 22/01/2020, he also placed on record consent terms drawn between himself and some of the investors.

3. The learned A.P.P. makes a categorical statement there is an out and out failure on part of the applicant to abide by the

undertakings given to this Court. For instance, she state that the flat which was undertaken to be allotted to Mukesh Mehta and Kiran Mehta i.e. flat No.105 in M.B.Tower, is now in fact sold to one Hina Rajesh Modi and, according to her, there is a clear breach of the undertaking. Further, the learned counsel for the Association of Flat Purchasers in M.B.Tower also makes a grievance that several commitments made before this Court in form of undertakings, have not been honoured by the applicant.

The learned counsel appearing for Mr.Mukesh Mehta, intervenor/one of the investors, states that though the applicant has undertaken to make the payment, the cheques issued came to be dishonoured.

4. It can thus be seen that the applicant has failed to abide by the undertakings and the assurances given to this Court.

The learned counsel Mr.Suryawanshi appearing for the applicant do not run away from the violation of the undertakings, but his only concern is, if the applicant is taken into custody, the unfinished work cannot be finished and, ultimately, the flat purchasers would be deprived of the flats. The concern of Mr.Suryawanshi may be a real one, but it is also to be kept in mind that time and again, this Court has

continued the protection in favour of the applicant only on the undertakings given by him and this saga has continued, since 2018. Let an end be put to it now, since it is apparent that the applicant had clearly flouted the orders of this Court and has no intention to abide by the undertaking and has taken advantage of the orders, releasing him on bail in anticipation of his arrest, merely on the assurance given by him that he is likely to adhere to his undertaking and settle with all the investors. Now, if the investors themselves are making grievance that there is no compliance of the undertakings, subject to which he was released on bail, his protection deserves to be withdrawn.

5. In any case, since the construction activity was undertaken under the aegis of M/s.Om Mandar Realtors, M/s.Mandar Realtors as well other sister concerns in which the applicant is partner, the project shall be taken ahead by the other partners and the arrest of the applicant in the crime, for breach of undertaking, will not put any inconvenience to the investors.

6. In the wake of the above observations, looking to the conduct of the applicant and, since, the applicant faces serious accusations under Sections 406, 409, 467, 468, 471, 420 read

with Section 34 of the IPC and Sections 3 and 4 of the MPID Act, the interim protection granted in favour of the applicant on 18/09/2018 stands is recalled.

The application filed by the applicant is dismissed. The Investigating Officer is at liberty to take him into custody.

7. In view of disposal of the application, interim applications do not survive and stand disposed off.

(SMT. BHARATI DANGRE, J.)