

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

ANTICIPATORY BAIL APPLICATION NO. 01 OF 2021

1. Vishal Ashok Pendharkar
2. Mr. Ashok Pendharkar Applicants
v/s.
The State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO. 462 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO. 01 OF 2021**

Mr. Shyam Behari Verma Intervenor

In the matter between :-

Vishal Ashok Pendharkar and anr. Applicants
v/s.
The State of Maharashtra Respondent

Mr. Vivek Babar i/b. Mr. Viral Babar for the Applicants.
Ms. A.A. Takalkar, APP for the State.
Mr. Ashraf Kapoor i/b. Mohammad Z. Khan for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th JUNE, 2023.

P. C. :-

. The Applicants apprehend their arrest in C.R.No.716/2019 registered with Dindoshi Police Station, Mumbai for offences punishable under sections 420, 465, 467, 468, 471, 120-B of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by Shyam Behari Verma. The facts narrated in the FIR indicate that the Applicants were the co-owners of flat no.2401 situated on the 24th floor of Maharaja Retreat CHS Ltd., Film City Road, Goregaon (E), Mumbai – 400 063. They had sold the said flat to the first informant for sale consideration of Rs.1,37,00,000/- out of which Rs.80,00,000/- was paid to the first informant. It is stated that the Applicants had concealed the fact that the flat was already mortgaged. It is further stated that the Applicants had thereafter agreed to clear the loan but did not take any steps in that regard.

3. It is to be noted that by order dated 05/01/2021, this Court had granted interim bail to the Applicants. This Court while granting interim bail to the Applicants, had taken note of the fact that the registered agreement for sale clearly reveals that the vendors had disclosed that they had obtained loan from DHFL and that as on the date of the said agreement, outstanding dues were Rs.1,11,90,006/-. Hence, prima facie there was no suppression or concealment of the facts. Essential ingredients of cheating are prima facie not made out. Learned APP states that pursuant to the order of the interim bail, the

Applicants have appeared before the Investigating Officer and that they had co-operated with the investigation. She further states that the investigation has been completed and charge sheet will be filed within 10 days. Hence, no case is made out for custodial interrogation. Under the circumstances, interim protection granted by order dated 05/01/2021, stands confirmed. The Applicants shall appear before the Investigating Officer as and when required and further before the trial court on each and every date, unless exempted.

4. Application stands disposed of. Interim Application stands disposed of in view of disposal of ABA.

(SMT. ANUJA PRABHUDESSAI, J.)