

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

ANTICIPATORY BAIL APPLICATION NO. 84 OF 2023

Dipen Velji Shah	 Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 241 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 84 OF 2023**

Shrikant Digambar Kulkarni	 Intervenor
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In the matter between :-

Dipen Velji Shah	 Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 85 OF 2023**

Velji Gangji Shah	 Applicant
v/s.	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO. 240 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 85 OF 2023**

Shrikant Digambar Kulkarni	 Intervenor
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In the matter between :-

Velji Gangji Shah	 Applicant
v/s.	
The State of Maharashtra	 Respondent

Mr. Siddhesh Bhole a/w. Mr. Nikhil Ghate, Ms. Dhruti Chheda
i/b. Mr. Ankit H. Pandey for the Applicants.
Mr. S.V. Gavand, APP for the State.
Mr. Jainish Jain for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st MARCH, 2023.

P. C. :-

. These are the Applications under section 438 of Cr.P.C. filed by the aforesaid Applicants, apprehending their arrest in C.R.No.63/2021 registered with Santacruz Police Station, Mumbai for offences punishable under sections 420, 406 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants, learned APP for the State and learned counsel for the Intervenor. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR dated 18/02/2021 lodged by Shrikant Kulkarni. A perusal of the FIR reveals that in the year 2007, the first informant had contacted the Applicants, partners of J.J. Associates as well as the partners of Satguru Associates and Concrete Life Style and Infrastructure in connection with purchase of four flats. The first informant has stated that he had paid total

amount of Rs.1,81,00,000/- to J.J. Associates of which the Applicants are the partners. It is stated that construction has not commenced. The Applicants have neither allotted flats nor repaid the amount and have thus cheated him and misappropriated the amount paid by him.

4. The records reveal that the first informant had paid an amount of Rs.71,00,000/- to the partners of the J.J. Associates through bank transaction. The records further reveal that the Applicants have transferred this money in the account of Concrete Lifestyle and Infrastructure Private Limited. The records further reveal that the first informant has filed a suit before this Court being Suit No.619/2017. By order dated 20/12/2017, this Court had declined to grant any urgent relief and has further framed preliminary issue regarding limitation. Having failed to get any interim relief from the Civil Court, the first informant has filed this FIR on 18/02/2021. There is considerable delay in lodging the complaint. Prima facie, it appears that the dispute is of civil nature and that the first informant has already invoked jurisdiction of the civil court. In such circumstances, no case is made out for custodial interrogation. Hence, the Applications are allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicants - Dipen Velji

Shah and Velji Gangji Shah in C.R.No.63/2021 registered at Santacruz Police Station, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall report to the Investigating Officer as and when required by the Investigating Officer ;

(c) The Applicants shall not interfere with the Complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

5. The Applications stand disposed of. Interim Applications stand disposed of in view of disposal of Anticipatory Bail Applications.

PREETI
H
JAYANI

Digitally signed
by PREETI H
JAYANI
Date: 2023.03.28
14:07:34 +0530

(SMT. ANUJA PRABHUDESSAI, J.)