

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

BAIL APPLICATION NO.597 OF 2023

Noor Mohammed Ahmed Deraiya ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Mr. Bhushan Mahadik with Ms Neha Sule, Mr. Sandeep Magre, Ms Varsha Bhosale i/b. M/s. Mahadik and Associates for the Applicant.

Mr. Mohammad Zain Khan with Mr. Ashraf K., Mr. Faiyaz Khan for the Intervenor.

Mr. S.V. Gavand, APP for Respondent-State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 5th APRIL, 2023.

P. C. :-

1. At the outset, learned counsel for the Applicant seeks leave to amend prayer clause (a) as to incorporate Regular Case Number. Amendment to be carried out forthwith.

2. This is an application under Section 438 of the Cr.PC. filed by the Applicant, who is facing trial in R.C.C. No. 391/PW/2022 pending on the file of learned Chief Metropolitan Magistrate, 10th Andheri Court. Said case arises from C.R. No.576 of 2021 registered at D.N. Nagar Police Station, Andheri, Mumbai for the offences

punishable under Sections 420 of the IPC.

3. Heard Mr. Bhushan Mahadik, learned counsel for the Applicant, Mr. Mohammed Zain Khan learned counsel for the Intervenor and Mr. S.V. Gavand, learned APP for Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by Latifar Rahaman Vilayat Ali Merchant. The case of the prosecution in short is that the Applicant, who is a builder, had induced the First Informant and others to purchase flats and that he had received money from the First Informant and other purchasers. It is alleged that the Applicant did not complete the construction and did not refund the money.

5. Learned counsel for the Applicant as well as the First Informant state that the Applicant and the First Informant and the other purchasers have resolved the dispute amicably and that they have already entered into consent terms before the State Consumer Forum. This fact is also confirmed by the learned APP.

6. Considering the fact that the First Informant and the other purchasers have entered into settlement and that the dispute is of personal nature, in my considered view this would be a fit case to release the Applicant on bail on the following terms and conditions:-

- (i) The Applicant, who is facing trial in R.C.C. No. 391/PW/2022 pending on the file of learned Chief Metropolitan Magistrate, 10th Andheri Court, shall be released on bail on furnishing PR bonds in the sum of Rs.30,000/- with one or two sureties to the like amount;
- (ii) The Applicant shall report to the D.N. Nagar Police Station on the first Monday of every month till framing of the charge.
- (iii) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time;
- (iv) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates.

7. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)

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