

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

ANTICIPATORY BAIL APPLICATION NO. 1494 OF 2023

Ashvini Santosh Kharat ..Applicant

vs.

The State of Maharashtra ...Respondent

**ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 1496 OF 2023**

Sheshram Harjiramji Choudhary and Anr. ..Applicants

vs.

The State of Maharashtra ...Respondent

Mr.D.N.Salvi a/w Mr.Sahil D. Salvi a/w Mr.Narendra Kalpoth and
Mr.Sagar Redkar – Advocates for Applicant.
Mr.S.R.Agarkar – APP for the Respondent – State in both matters.
Mr.Sudhir Patil – API – EOW – Thane City.

CORAM : S. M. MODAK, J.

DATED : 12TH JUNE 2023

P. C. :

1. Heard learned Advocate Shri.Salvi for the Applicants in both the Applications and learned APP
2. The First-Informant Tanaji Jadhav was put into possession of his flat constructed in Krushna Apartment by M/s. Krushna Constructions on 27th March, 2022. Earlier to that, Kalyan-Dombivali Municipal Corporation has issued a notice on 4th March, 2022

thereby declaring that the construction as illegal. All occupants were asked to vacate their respective premises. The First-Informant realized that he is being cheated. He realized that in fact, no land having Survey No.29 part at Mauje Kanchangaon exists in revenue record in the name of Rukmabai Sukarya Kalan and others. He realized that in fact, there is no building permission and completion certificate issued on behalf of the Corporation. That is why, he has lodged complaint with Tilak Nagar Police Station – Thane City and it is registered under Sections 114, 120-B, 419, 420, 465, 467, 468, 471 read with 34 of Indian Penal Code, 1860 [“IPC”]. All these Applicants contend that they are neither partners of M/s. Krushna Constructions and they are not concerned in any capacity with the said Firm. It is contended that on the basis of mere reference in the FIR that the documents were shown to the First-Informant, all these Applicants have been unnecessarily implicated in this offence. Learned Advocate Shri.Salvi read over the averments in the FIR and submitted that even if they are accepted for the sake of arguments, it does not reveal commission of any offence by these Applicants.

3. Whereas, learned APP submitted that the investigation discloses that the Applicant Sheshram is involved in the activity of undertaking construction without permission and on the basis of

forged documents. He pointed out that a huge amount is transferred in the Bank account of Applicant Sheshram from the partnership firm's account and there is correspondence made with IDBI Bank. Those correspondence are shown to me. The matter was kept back for taking instructions from Sheshram on this aspect.

4. Later on, Mr.Salvi submitted that the Applicant Sheshram has advanced a loan of Rs.2,91,00,000/- to the Firm in the year 2017 and if at all, the Bank entries are there, that is towards refund of that amount. Whereas, learned APP also submits that the statement recorded of the occupants of the building suggest that the Applicant Sheshram was involved in the construction activity.

5. I have perused few of the statements which mention that the present Applicant has shown the documents to the flat purchasers which consists of 7x12 extract. There is a statement from the revenue officer which suggests that such land does not exist in their record. One more statement suggests that when part of the construction was demolished by the Corporation, the said purchaser has insisted for giving him possession of the purchased flat, the present Applicant unhesistantly has made alternate arrangement of this Applicant. These materials show that the transaction in between Sheshram and the Firm is merely not of a borrower and lender, but it

shows that he is involved in the activity.

6. There are correspondence with Revenue Authorities and Corporation Authorities which suggest land does not exist and building permission and construction permission are not granted by the Corporation. Ultimately, custodial interrogation of the Applicant – Sheshram is required. So, no case for anticipatory bail is made out by him.

7. So far as Applicant Sharda and Applicant Ashvini are concerned, there are no allegations in the FIR. The Prosecution does not say that they are the beneficiaries of any amount or they have played any part either by interacting with the flat purchasers or in preparing those forged documents. Hence, both these ladies have made out a case for anticipatory bail. Hence, following order :-

ORDER

- (i) Application No. 1496 of 2023 is rejected so far as Applicant No.1– Sheshram Choudhary is concerned.
- (ii) Applicant No.2 – Sharda (in Application No. 1496 of 2023) and Applicant Ashvini (in Application No. 1494 of 2023) be released on bail in case of their arrest in connection with C.R. No. 76 of 2023 registered with Tilak Nagar Police Station – Thane City for the offences punishable under Sections 114, 120-B, 419, 420, 465, 467, 468, 471 read with 34 of IPC, on furnishing personal bond and surety bond of Rs.25,000/- each.

(iii) They are directed to cooperate with the Police as and when required.

8. Applications are disposed of accordingly.

9. At this stage, learned Advocate Shri.Salvi submitted that let the implementation of this order be stayed for two weeks as his client Sheshram wants to take a chance before the Hon'ble Supreme Court. It is opposed on behalf of learned APP.

10. Let Applicant Sheshram be protected from arrest for two weeks from today. In case of an arrest, Sheshram be released on furnishing personal bond and surety bond of Rs.25,000/-. He is directed to give attendance to Tilak Nagar Police Station – Thane City on 20th and 23rd June, 2023 from 3 to 5 p.m..

11. It is made clear that this protection is granted only for the purpose of granting an opportunity to the Applicant Sheshram to approach the Hon'ble Supreme Court.

12. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]