

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

BAIL APPLICATION NO.1827 OF 2022

Tejal Madhukar Rupji ...Applicant

Versus

The State of Maharashtra ...Respondent

**WITH
BAIL APPLICATION NO.1830 OF 2022**

Tejal Madhukar Rupji ...Applicant

Versus

The State of Maharashtra ...Respondent

...

Mr. Niranjan Mundargi with Mr. Mangesh M. Deshmukh and Mr. Tanmay A. Sawant for the Applicant in both the applications.

Ms A.A. Takalkar, APP for the Respondent -State.

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CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 19th JULY, 2023.

P. C. :-

1. This is an application under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in R.C.C. Nos.542/PW/2021 and 543/PW/2021 pending on the file of learned Metropolitan Magistrate, 13th Bhoiwada Court. These cases arise from Crime Nos.19 of 2019 and 232 of 2019, respectively, both registered at R.A.K. Marg police station, Mumbai, for the offences punishable under Sections 406 and 420 r/w 34 of the IPC.

2. The case of the prosecution is that the Applicant, who is the partner of Rupji Construction had undertaken construction of two projects. Several purchasers had booked apartments in the said projects. The Applicant had received money from the said purchasers. It is alleged that the Applicant neither completed the projects nor returned the money. Hence, several crimes came to be registered against the Applicant.

3. It is stated that some of the purchasers had also filed complaint before the Consumer Forum and that the Applicant was convicted by the Consumer Forum under Section 27 of the Consumer Protection Act. It is stated that pursuant to the order, the Applicant was arrested in the year 2018 and released on 10/12/2020. The records reveal that while the Applicant was in custody, investigation in Crime No.19 of 2019 and Crime No.232 of 2019 was completed and by notice dated 22/06/2021 the Applicant was called upon to accept the charge sheet. The Investigating Agency had not sought custody of the Applicant while he was in jail nor any notice was given to him after his release from jail. It is further stated that the Applicant has already

been released on bail i.e. in Crime Nos.44/2016, 150/17 and 177 of 2018, which were also registered pursuant to the FIR lodged by the Purchasers in the same projects.

4. Mr. Mundargi, learned counsel for the Applicant further states that the Co-operative Housing Society has filed Arbitration Petition (Arbitration Petition No.559 of 2017) which is pending before the Court. By order dated 14/12/2017, in the said arbitration petition, this Court had restrained the partnership firm and its partners from selling, alienating, encumbering, parting with possession and/or creating any third party rights in respect any of their immovable and movable properties including the shareholding in the Company. They have also been restrained from withdrawing money from the Bank Accounts except for payment of statutory dues. Hence, prima facie interest of purchasers and the society is safeguarded by order dated 14/12/2017. The investigation has been completed and charge-sheet has already been filed. The Applicant is in custody in these two crimes from 28/06/2021. It is stated that till date charge has not been framed. Considering the large pendency, there are no chances of the trial concluding in the near future.

5. Considering the above facts and circumstances, in my considered view this is a fit case to exercise discretion under Section 439 of the Cr.P.C. Hence, the following order:-

- (i) The Applicant, who is facing trial in R.C.C. Nos.542/PW/2021 and 543/PW/2021 pending on the file of learned Metropolitan Magistrate, 13th Bhoiwada Court, is ordered to be released on bail on executing PR bonds in the sum of Rs.40,000/- in each of the crimes with one or two sureties to the like amount;
- (ii) The Applicant shall report to the RAK Marg Police Station once in three months on the first Monday of the month between 11.00 a.m. to 2.00 p.m.
- (iii) The Applicant shall not leave India without prior permission of the Court;
- (iv) The Applicant shall deposit the passport in the Trial Court and in case he does not hold a passport, to file an affidavit to that effect before the Trial Court.
- (v) The Applicant shall not tamper with the evidence or attempt to influence or contact the

complainant, witnesses or any person concerned with the case;

(vi) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates, unless exempted;

(vii) 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;

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)