

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

ANTICIPATORY BAIL APPLICATION NO. 2008 OF 2023

Ajit Dayashankar Mishra

...Applicant

vs.

The State of Maharashtra

...Respondent

Ms.Kusum Pandey – Advocate for Applicant.

Mr.H.J.Dedhia – APP for Respondent-State.

Mr.Naveen Chomal i/b. Mr.Ashish Kachole – Advocate for Intervenor No.1.

Mr.Rakesh Singh – Advocate for Intervenor No.2.

CORAM : S. M. MODAK, J.

DATED : 26TH JULY 2023

P. C. :

1. Heard learned Advocate Ms.Kusum Pandey for the Applicant. Also heard learned Advocate for the First-Informant Shri.Kiran Arun Shetty and learned Advocate for Shweta Kanojiya. They undertakes to file Vakalatnama. Also heard learned APP.

2. Earlier Anticipatory Bail Application No. 3594 of 2022 filed by the present Applicant was withdrawn on 17th February, 2023. Copy of said order is on Page No.23.

3. According to learned Advocate for the Intervenors, it was withdrawn because learned Single Judge was not inclined to allow it. Whereas, according to learned Advocate Ms.Pandey, that was not

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the situation as it is not reflected in the order. Be that it may, the position stands that it was withdrawn earlier.

4. As the charge-sheet is filed, my attention is invited to the said charge-sheet. In all, there are 3 Accused persons. They are Jayesh Natekar and Jagdish Soni. They are the builders. Whereas, present Applicant is Accused No.3. He is a broker. Number of contentions are raised, that is to say, it is not the present Applicant who has introduced to flat purchasers. They got knowledge from their own source. The contention is raised that amount of consideration is not paid to the present Applicant but it was paid to Accused Nos.1 and 2. The contention is also raised that custodial interrogation of the Applicant is not required as already a charge-sheet is filed.

5. The present Applicant has also filed a complaint against Jayesh Natekar and Jagdish Soni. Its copy is tendered on record and marked as Annexure-X. It is annexed by the bank statements showing that he has paid the amount to the builders.

6. According to learned APP, this complaint was filed after the present FIR. There is reliance on the observations by learned Single Judge of this Court in case of ***Chandrakant Dattatray Deshpande V/s. State of Maharashtra***¹.

1 Anticipatory Bail Application No. 1424 of 2021 : 21st June, 2021 : Bombay High Court

7. If we read the allegations in the FIR, it seems that some bogus building permissions are shown and they are annexed to the agreement. The flats are from one building No.6 out of several buildings. The construction is unauthorized. Custodial interrogation is required in order to unearth how these building permissions are prepared. Even though consideration is not paid to this Applicant, in FIR and witness statement, his reference is there as broker and he has accompanied both these Accused Nos.1 and 2. So, no case for bail is made out. Even though, he might have filed a complaint, that may be a separate transaction and this was filed after FIR. The facts in case of ***Chandrakant Dattatray Deshpande*** (*supra*) can be differentiated. No case for anticipatory bail is made out. Hence, Application is dismissed.

8. These are my *prima facie* observations. Let learned trial Court need not be influenced by them.

9. Application is disposed of in the aforesaid terms.

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

[S. M. MODAK, J.]