

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.2751 OF 2021

Divyani Mangalchand Jain ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Sandip D. Shinde with Mr. Laukik Pawar i/by Mr.
Chetan Deshmukh for the applicant.

Mr. Amit A. Palkar, APP for the respondent No.1/State.

Mr. Advait U. Shukla for the respondent No.2.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.314 of 2021, registered with Panchavati Police Station, District Nashik for offences punishable under section 420 read with section 34 of the Indian Penal Code, 1860, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

2. A report was lodged against the applicant alleging that one Vijay Vasudev Lalwani partner of construction firm who constructed a building which is subject matter of report appointed the applicant as his employee on salary of Rs.15,000/- per month. The applicant accepted amount of more than Rs.20,00,000/- portraying herself to be owner of the project. She pocketed the

amount and did not transfer the amount to the developer which prompted the informant to lodge a report. The applicant approached the learned Sessions Court for relief under section 438 of the Criminal Procedure Code, 1973, which came to be rejected by order dated 25th October 2021. Aggrieved thereby, the applicant has filed present anticipatory bail application.

3. This Court continued interim relief granted by the learned Sessions Court. The said interim relief is in force. There is no material to show that the applicant has not cooperated with the interrogation.

4. On perusal of the material on record, it appears that the developer has executed registered conveyance as contemplated under Article 25 of the Bombay Stamp Act, 1958, which contains a clause acknowledging receipt of full consideration amount payable towards price of individual unit transferred in favour of the victims. According to the informant and victims, amount of more than Rs.20,00,000/- was jointly paid towards consideration of price of unit. Therefore, prima facie once the registered document in the form of conveyance acknowledges acceptance of entire price of consideration, the applicant has made out a prima facie case for relief under section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R. No.314 of 2021, registered with Panchavati Police Station, District Nashik for offences punishable under section 420 read with section 34 of the Indian Penal Code, 1860, he

shall be released on bail on furnishing PR Bond in the sum of Rs.50,000/- with one or two sureties in the like amount;

b) The applicant shall cooperate with the investigation and make himself available for interrogation whenever required;

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the court concerned, and shall not change the residence till the final disposal of the case;

5. The anticipatory bail application stands disposed of in above terms.

(AMIT BORKAR, J.)