

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.303 OF 2023

(Nilesh Prabhakarrrao Dalvi and anr. Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.J. Mirza, Advocate for the applicants.
Shri I.J. Damle, APP for State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JUNE 27, 2023.

Heard.

2. Present application is filed by the applicants for grant of bail in the event of their arrest in connection with Crime No.105/2023 registered at police station Khadan, Akola for the offence punishable under Sections 120-B, 406, 420, 468, 471, 472, 478, 504, 506 read with Section 34 of the Indian Penal Code.

3. The applicants are apprehending arrest at the hands of police as the crime is registered on the basis of report lodged by Ashok Wamanrao Mahalle in view of the order passed by the Chief Judicial Magistrate, Akola. As per the allegations in the complaint they got acquainted with the property brokers i.e. present applicants and the informant was willing to invest his money in a way that yielded him high returns. The property brokers assured him that they would show him some plots which would be purchased at a very cheaper price and which would fetch high profit upon investing. In the said transaction, the

brokers would earn their commission and the complainant would get good profit, therefore, the complainant has purchased the said plots. It reveals to the complainant that the plots which are already sold are resold to him and thereby he was cheated by the present applicants. The present applicants also received the commission towards the said transaction. On the basis of said report, police have registered the crime against the present applicants.

4. As per the contention of the present applicants that they are the only brokers. Only role attributed to them is that they have shown the plots. In fact, the co-accused Manojkumar Narendralal Shah and Parag Kanakbhai Shah has challenged the order of the Chief Judicial Magistrate by preferring criminal revision. In the said criminal revision, the Revisional Court has quashed and set aside the order passed by the Magistrate.

5. Said application is strongly opposed by the state on the ground that present applicants are the persons who received the commission and also shown the plots which are already sold out. Thus, the intention of the present applicants is revealed from the inception. Their custodial interrogation is required and hence application deserves to be rejected.

6. Heard learned Counsel for the applicants. He invited my attention towards the order passed by the Revisional Court wherein Revisional Court has observed that from the transaction, it reveals that present applicants have shown the plots to the informant. Sale-deed is

executed. After a few months the informant realised that the plot shown to him by the brokers was different than the plot actually purchased by him. Therefore, he went to the plot described in the sale-deed and measured the plot and it reveals that there was an encroachment. Besides the fact that it was not the plot which was shown by the brokers, and therefore, he has made the grievance. It is further observed by the Revisional Court that from the face of the record, the allegation of deception is not made out and quashed and set aside the order passed by the Magistrate.

7. Admittedly, the present applicants have not challenged the said order by referring any revision. Now considering the allegation against the present applicants is only that they have shown the plot to the informant. Admittedly, nothing is to be recovered from the present applicants as far as the interrogation part is concerned, some stringent conditions can be imposed on the applicants.

8. In view of the above allegations, the application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicants –
(1) Nilesh Prabhakarrao Dalvi and (2) Ravi Narayan Adhav in connection with Crime No.105/2023 registered at police station

Khadan, Akola for the offence punishable under Sections 120-B, 406, 420, 468, 471, 472, 478, 504, 506 read with Section 34 of the Indian Penal Code, be released on anticipatory bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) each, with one solvent surety each, in the like amount.

(iii) The applicants shall attend the concerned police station as and when required for the investigation purpose.

(iv) The applicants shall furnish their cell phone numbers and address along with their address proof.

(v) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

(URMILA JOSHI-PHALKE, J.)

**Divya*