



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

CRIMINAL APPLICATION (ABA) NO.425 OF 2023

[Varsha Rasiklal Patel ..V/s.. State of Maharashtra.]

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Mr P. D. Sharma, Advocate for Applicant.
Ms S. Dhote, APP for Non-Applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATE : 11th DECEMBER, 2023.

. By this application, the applicant is seeking pre-arrest bail in the event of her arrest in connection with Crime No.15 of 2023 registered under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860.

2. The applicant is apprehending the arrest as accusation is against him on the basis of report lodged by Sanam Dindyalji Thakkar on an allegation that she had booked a flat in a scheme namely Jai Bhadrakali Apartment at Shaktimata Nagar, Wathoda. The said scheme is developed by the present applicant who is the Proprietor of Maa Maya Builders. On 28.10.2021, agreement to sale was executed between the parties and the applicant has paid the 1/4th amount of Rs.8,00,000/- towards the total consideration at the beginning and thereafter Rs.51,000/- in the account of accused No.2. Thereafter, the applicant has executed the registered agreement to sale in the name of the informant. It is further revealed that the informant has obtained the loan and bank has disbursed the loan amount of consideration to the present applicant, but the present applicant

has not handed over the possession to the informant nor repaying the amount.

3. Heard the learned counsel for applicant and learned APP for the State.

4. The learned counsel for applicant submitted that as far as the allegations are concerned from which it reveals that the dispute is of civil nature and custodial interrogation of the present applicant is not required.

5. The learned APP strongly opposed the application on the ground that the amount is to be recovered from the present applicant.

6. After hearing both the sides and after perusal of the recitals of the FIR, *prima facie* it reveals that the transaction between the informant and the present applicant is of purchase of flat. The agreement was entered into and the consideration amount was paid. Thus, apparently the dispute between the parties is of a civil nature. The custodial interrogation of the present applicant is not required. Considering the same, the interim protection was granted to the present applicant. Nothing is on record to show that the present applicant either misused the liberty.

7. Considering the same, *ad interim* anticipatory bail granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass the following order :

ORDER

- i) The criminal application is **allowed**.
 - ii) The ad interim anticipatory bail to the applicant *vide* order dated 07.07.2023 is hereby confirmed with the same terms and conditions given in the said order.
8. The pending criminal application(s), if any, stand(s) disposed of.

JUDGE