

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 932 OF 2021

Jyothi Mary Lobo ... Applicant

Versus

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO. 3173 OF 2021

(INTERVENTION)

IN

ANTICIPATORY BAIL APPLICATION NO.932 OF 2021

Theresa Hyginus Crasto ... Intervenor

In the matter between

Jyothi Mary Lobo ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. Kuldeep Patil a/w Mr. Vikas Sharma for Applicant.

Mr. Kiran C. Shinde, APP for State.

Mr. Melwyan R. Pereira for Applicant in IA 3173/2021

Mr. Bandgar, PSI, Kasturba Marg Police Station.

Mr. Nalawade, PSI – Kurar Police Station.

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CORAM : SANDEEP V. MARNE, J.

DATED : 12th MARCH 2024

P.C. :-

1. This is an Application seeking pre-arrest bail in connection with CR No. 990/2020 registered with Goregaon Police Station, Mumbai for

the offences punishable under Sections 406, 420 read with 34 of the Indian Penal Code.

2. The case arised out of FIR lodged by the Complainant Ms.Theresa Hyginus Crasto against Mr.V.P. Lobo- Applicant's husband and director of the company T3 Urban Developers Limited for having accepted an amount of Rs.3,60,000/- from the Complainant towards booking of Flat No. 205 in Lilly Building admeasuring 525 sq. ft. The Complainant alleges that she was issued an allotment letter by Mr. V.P. Lobo on 9th July, 2016 and promised to give possession of flat by December, 2017. It appears that Mr. V.P. Lobo did not execute registered agreement with the Complainant in respect of booking of flat No. 205. The Complainant alleges that when she approached Mr. V.P. Lobo in November, 2017, enquiring about the flat purchased by her, Mr.Lobo expressed his inability to deliver the flat as per the allotment letter. He also refused to refund the amount of Rs.3,60,000/- paid by the Complainant.

3. It appears that, in the FIR, the Complainant has referred to similar conduct of cheating indulged by Mr.V.P. Lobo with other victims. It appears that in pursuance of the FIR lodged by the Complainant, Mr. V.P. Lobo was arrested on 10th March, 2020. It appears that, the

investigation in the crime against Mr. V.P. Lobo is already completed and charge-sheet is filed against him. He is also released on bail.

4. The Applicant pleads that, she was merely an employee in the company T3 Urban Developers Limited. She has placed on record the details of directors of the company.

5. The learned APP would submit that during the course of investigation, it was found that an amount of Rs.1,27,61,597/- was deposited in the personal account of the Applicant. The Applicant explains this, by stating that she has received salaries from the Company from time to time. She has placed on record the salary certificates as well as income tax returns to justify her claim of amount received by her during the years from 2012-2013 to 2016-2017 towards salaries earned by her.

6. The Applicant is already on interim protection since 8th April, 2021.

7. Mr.Patil, learned counsel for the Applicant would submit that the Applicant has always cooperated with the police in the investigation. On the contrary, the learned APP disputes this submission and submits that, the Applicant has not remained present in the police station even once for investigation. On this, Mr. Patil would submit that there is not

even a single occasion where the Applicant has disobeyed any requisition by the police for investigation.

8. Be that as it may. So far as the complainant is concerned, the amount allegedly paid by her to Mr.Lobo is Rs.3,60,000/-. She has also filed Interim Application No. 3173 of 2021 seeking intervention. In the intervention application, it is sought to be alleged that Mr. V.P. Lobo has duped several flat purchasers and the total amount involved is Rs.1,46,56,716/-.

9. The learned counsel for the Intervenor would submit that it is a larger conspiracy between the Applicant and her husband where several flat purchasers have been duped.

10. In my view, the case registered against the Applicant is essentially upon the FIR lodged by the Complainant. The Complainant has allegedly paid Rs.3,60,000/- to Mr. Lobo.

11. Mr.Patil, after taking instructions from the Applicant, makes a statement that without prejudice to her rights, the Applicant is willing to refund the amount of Rs.3,60,000/- to the Complainant in two installments of Rs. 1,80,000/- payable on or before 12th April,2024 and further amount of Rs.1,80,000/- payable on or before 12th May, 2024. He would submit that the Applicant is willing to submit an undertaking

to that effect.

12. The Applicant to file an undertaking in this Court for refund of the amount of Rs.3,60,000/- as per the statement recorded within a period of two weeks from today. Now that the Applicant has undertaken to refund the amount received from the Complainant, without prejudice to her rights and contentions, in my view, the interim protection granted in favour of the Applicant, which is operating since 8th April, 2021, can be made absolute.

13. Mr. Patil assures the Court that the Applicant shall cooperate with the Investigating Officer by remaining present in the police station as and when called for investigations, if police still wants to investigate against her.

14. The Anticipatory Bail Application is allowed. Interim protection granted by this Court is made absolute subject to the condition of the Applicant filing an undertaking as directed above within two weeks from today and subject to the condition of refund of the amount of Rs.3,60,000/- to the Complainant as per the undertaking.

(SANDEEP V. MARNE, J.)