

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

**ANTICIPATORY BAIL APPLICATION NO. 1037 OF 2024**

(1) Shraddha Jayesh Tanna,  
(2) Hanita Vivek Tanna ..Applicants  
Versus  
The State of Maharashtra ..Respondent

Mr. Mihir Gheewala a/w. Farhad Panthaki, Ms. Raksha Thakkar  
and Ms. Karen Koya i/b. Lexicon Law Partners for Applicants.  
Ms. Pallavi N. Dabholkar, APP for State/Respondent.  
Mr. Mayur C. Shikhare for the first informant.

CORAM : SARANG V. KOTWAL, J.  
DATE : 17 APRIL 2024

**P.C. :**

1. The Applicants are seeking anticipatory bail in connection with C.R.No.1094 of 2023 registered at Amboli Police Station, Mumbai, on 12.12.2023, under sections 420 and 406 r/w. 34 of the Indian Penal Code.
2. Heard Mr. Mihir Gheewala, learned counsel for the applicants and Ms. Pallavi Dabholkar, learned APP for the State.
3. The F.I.R. is lodged by one Vinod Punjabi. He has

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stated that, in the year 2013, he wanted to purchase a flat in Andheri. He came across an information that M/s. Shree Saisagar Consultants Group and Wadhwa Group were constructing the buildings in the project by the name 'The Nest'. The informant went to the site. He saw that the construction of 'A' and 'B' wings was going on. 'A' wing was constructed up to 8<sup>th</sup> floor. He went to the office of the said developer. It is mentioned in the F.I.R. that, he met Jayesh Tanna who was a director of the said developer company. Jayesh gave the information about the project to the informant and told him that, 3 BHK flats admeasuring 2385 Sq.ft. were available for sale. At that time, the informant felt that the price was high and, therefore, did not decide to purchase the flat. However, Jayesh persisted and called the informant again and again. Therefore, in July 2014 the informant again went to the site and saw that 12 floors were constructed and the flat No.903 in 'A' wing was almost complete. The informant decided to purchase that flat. In July 2014, he gave Rs.30 lakhs. The price was fixed at Rs.3,33,90,000/-. He was given the allotment letter on 28.07.2014 by one Deep Tanna. The F.I.R. goes on to mention that the

informant went on making payment of the balance amount and he paid Rs.3,33,86,365/- including the amounts for taxes etc. Jayesh and Deep did not take steps in completing the registration in respect of that flat. The informant took out a search report. He came to know that the same flat was sold by the accused to Arunis Financial Consultants Pvt. Ltd. The informant sent a notice to Jayesh on 10.05.2018. He made complaint to RERA. Therefore, Jayesh promised to give another flat i.e. Flat No.902 in 'B' wing. The informant made enquiries and came to know that the said flat was mortgaged with a finance company. Therefore, the informant insisted that Jayesh should give him the flat No.903 in 'A' wing. But neither the flat was given nor the amount was refunded. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicants submitted that, there are no allegations against the present applicants. They are sought to be arraigned as accused only because for a brief period the applicants were the Directors of the said developer company. He submitted that the applicant No.2 is the daughter in law of the main accused Jayesh. She got married with Jayesh's son in the

year 2016. The applicant No.1 is Jayesh's daughter and she was 19 years of age in the year 2013. Both of them, therefore, have no connection with the alleged offense. Therefore, their custodial interrogation is not necessary.

5. Learned counsel for the first informant submitted that the applicants were the Directors of the said developer company between the year 2017 to 2019. During that period, promises were made to give the other flat No.902 in 'B' wing. Therefore, at that time, the applicants had a role to play in depriving the informant of the possession of his flat and also depriving him from getting back his money which he had paid. He submitted that, there are many offences registered against Jayesh. There are two offences registered against the present applicants.

6. Learned APP also opposed granting relief in this application. She produced the investigation papers before the Court. The investigation papers contain the copies of agreement for sale, receipts executed for Shree Saisagar Consultants, the photocopies of the cheques issued by the first informant etc.

7. I have considered these submissions. The investigation papers do not reveal a particular role or any role played by the present applicants. The F.I.R. is restricted to the allegations specifically against Jayesh. The representation was made by Jayesh. There are some roles attributed to Vivek Tanna and Deep Tanna. There is only a reference in the concluding part of the F.I.R., wherein, it is mentioned that, both the applicants who are the Directors of the said company, in collusion with the other Directors had committed this offence. But it is also mentioned that, when he searched for the record of the said company, then he came to know that the present applicants were the Directors of the said company. The F.I.R., otherwise, does not specify any role played by the present applicants. There is substance in the submission of learned counsel for the applicants that the applicant No.2 got married with Jayesh's son in the year 2016 and the transaction between the informant and Jayesh had started from the year 2014. The applicant No.1 was 19 years of age in the year 2013. Both of them are ladies. There is hardly any role ascribed to them. At this stage, it is difficult to observe that, they can be roped

in as accused by applying the principles of vicarious liability. In absence of any specific role attributed to them, it is difficult to observe that they have committed any offence even vicariously. In this view of the matter, custodial interrogation of the applicants is not necessary. It is sufficient if they co-operate with the investigation.

8. Hence, the following order :

### **ORDER**

- i) In the event of their arrest in connection with C.R.No.1094 of 2023 registered at Amboli Police Station, Mumbai, the applicants are directed to be released on bail on their executing P. R. bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.
- ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

**(SARANG V. KOTWAL, J.)**