

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2378 OF 2021

Rajesh Krishnan ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
INTERIM APPLICATION NO.434 OF 2024
IN

ANTICIPATORY BAIL APPLICATION NO.2378 OF 2021
Tanaji Malusare City Welfare Association ...Applicant/Intervenor

In the matter between

Rajesh Krishnan ...Respondent

Versus

The State of Maharashtra ...Respondent

...

Mr. Gaurav Parkar *for the Applicant in ABA/2378/2021*

Mr. A.S. Gawai, APP *for Respondent-State.*

Mr. Dhruva Gandhi *with Mr. Ashish Mehta, Mr. Himanshu Singh*
i/b. M/s. Ethos Legal Alliance for the Applicant in IA/434/2024

CORAM : SANDEEP V. MARNE, J.

DATED : 24 APRIL 2024.

PC:

1. This is an application filed by the Applicant under the provisions of Section 438 of the Code of Criminal Procedure seeking pre-arrest bail in connection with C.R. No.219 of 2021 registered with Karjat Police Station, District-Raigad, for the offences punishable under

Sections 420, 406, 409, 465, 467, 468, 471 and 120B of the IPC and Sections 3, 8, 11 and 13 of the Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963.

2. I have heard Mr. Parkar, learned counsel appearing for the Applicant, Mr. Gavai, learned APP for the Respondent-State and Mr. Gandhi, learned counsel appearing for the Intervenor in the interim application.

3. Having heard the learned counsel for the respective parties at a considerable length, it appears that the entire transaction of bringing various investors for execution of the project is of complex nature. While I could have dealt with entire corporate web created by the accused for execution of Tanaji Malusare City project, considering the nature of relief that is sought in the application as well as with a view to avoid any influence on the trial of the case, I am avoiding to discuss the detailed manner in which transfer of stakes in various companies as well as investments by various individuals and entities that has taken place in the present case.

4. Suffice it to observe that the project -Tanaji Malusare City was being executed by Gopi Resorts Pvt. Ltd. (**GRPL**), whose name is now changed to Sheltrex Karjat Pvt. Ltd (**SKPL**). It appears that the Applicant has arranged for investors for execution of the said project on one hand and at the same time, he appears to have taken part in setting

up entities for execution of the project either in capacity as adviser or contractor. It appears that erstwhile GRPL, which is now SKPL is under Corporate Insolvency Resolution Process (CIRP). It appears that approximately 4000 home buyers have paid various amounts to GRPL, which is now SKPL, for purchase of houses and only about 880 home buyers have been delivered possession of their flats. On account of pendency of CIRP proceedings against GRPL/SKPL, it appears that construction activity of the project has come to a grinding halt.

5. The exact role of the Applicant in the entire episode needs to be ascertained and aspect as to whether the entire transaction has caused a pecuniary gain to him will have to be first investigated and then taken for trial.

6. The FIR in question is lodged at the instance of one of the home buyers and it has now been almost three years from the date of lodging of the FIR. The Applicant himself is under interim protection of this Court since 7 October 2021. There is no denial to the position that the Applicant has presented himself every time he is asked to do so by the Investigating Officer. Charge-sheet has already been filed in respect of the five accused out of the 20 named in the FIR. The Investigating Officer desperately wants original document of Development Agreement dated 9 January 2021 executed by GRPL in favour of Sheltrex Developers Pvt. Ltd.(SDPL). The Applicant claims that despite making best efforts, the original of the said document is not traceable. From submissions of Mr. Parkar, a picture is created as if SDPL has merely acted as a development manager/ construction contractor in the

present case. This defence goes against covenants of Development Agreement dated 9 January 2021, under which SDPL is shown to have been granted development rights in respect of the project. However, my attention was also invited to a subsequent agreement, under which SDPL is shown to have been granted contract for carrying out some construction at the site.

7. There is yet another aspect, which is required to be taken into consideration. At the instance of police, it appears that a forensic audit has been conducted by M/s. V.S. Vaidya and Co., Chartered Accountants, which shows that an amount of Rs.37 crores has been paid to M/s. Technic Project Company (TPC), in which the Applicant is a Director. The Applicant explains this by submitting that TPC has received a contract from GRPL/SKPL for construction of some area in the project and that TPC has completed construction of 22 buildings consisting of 840 flats and has handed them over to GRPL/SKPL. That the amount due to TPC for carrying out such construction is Rs.50.66 crores whereas amount of Rs.30.94 crores only is received from GRPL.

8. So far as SDPL is concerned, though there is allegation of payment of amount of Rs.20.87 crores by GRPL/SKPL, Mr. Parkar would submit that the entire amount received by SDPL are explained to the Investigating Officer by producing tally backup of all the associate companies. Considering the complex nature of the transactions involved in the present case, in my view co-operation by Applicant for completion of the investigation is of utmost importance. However, whether

custodial interrogation of the Applicant is necessary in the facts and circumstances of the case is the issue in question. In my view, since the Applicant is already under interim protection for the last about three years, it would be appropriate that he co-operates in the investigation by remaining present before the Investigating Officer rather than being put in custody by denial of anticipatory bail. The investigation appears to be at final stage of completion. The Applicant needs to co-operate with the Investigating Officer so that the charge-sheet can be filed in an expeditious manner. Accordingly, I proceed to pass the following order:-

- (i) The interim protection granted in favour of the Applicant by order dated 7 October 2021 is made absolute.
- (ii) The Applicant shall report to the Investigating Officer of the concerned police station on 27 April 2024, 4 May 2024, 11 May 2024, 18 May 2024 and 25 May 2024 at 11.00 a.m. and co-operate with the Investigating Officer for expeditious completion of the investigation.
- (iii) In the event presence of the Applicant is needed after 25 May 2024, he shall remain present as and when summoned by the Investigating Officer.
- (iv) The Applicant shall not leave India till the investigations are completed and charge-sheet is filed.

9. With the above directions, the Anticipatory Bail Application is allowed and disposed of.

10. In view of disposal of the Anticipatory Bail Application, interim application does not survive and stands disposed of.

[SANDEEP V. MARNE, J.]