

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3220 OF 2023

Govind Chedilal Vishwakarma ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Deepak Kumar a/w. Ms. Eliya Ghodke, for the Applicant.
Mr. S.R.Agarkar, APP, for the Respondent/State.
Mr. Belose, PSI, Kashimira police station.

CORAM : N. J. JAMADAR, J.
DATE : APRIL 25, 2024

P.C.:

1. Heard the learned counsel for the parties.
2. The applicant, who is arraigned in C.R. No. 395 of 2021 registered with Kashimira police station for the offences punishable under sections 420 and 406 of Indian Penal Code, 1860 and section 4 of the Maharashtra Ownership of Flats (Regulation of the Promotion, Construction, Sale, Management and Transfer) Act, 1963 seeks to be enlarged on bail.
3. The first informant lodged a report with the allegations that the applicant had started a project at Survey No. 87, Hissa No.4A, Kashi Gaon, Kashimira. The applicant represented that he had entered into a development agreement with the holders of the said land to convert the land into plots and sell the plots. Pursuant to the representation made by the applicant, the first informant parted with a sum of Rs. 1,85,000/- for a plot of land 10 x 20 sq.ft. The

applicant did not execute the instrument. It later on transpired that the development agreement and power of attorney came to be terminated. In similar fashion, the applicant had sold the plots to 214 persons and the purchasers were duped to the tune of Rs. 2 Crores.

4. The applicant came to be arrested on 14th October, 2021.

5. The learned counsel for the applicant submitted that the transaction was primarily of a civil nature. In fact, the applicant had incurred more expenditure than the investors/ plot purchasers.

6. The learned APP resisted the prayer for bail on merits. However, the learned APP fairly submitted that having regard to the punishment which the offences under sections 420 and 406 entail and the period of incarceration, the prayer for bail deserves consideration.

7. The question as to whether the intention of the applicant was dishonest since inception of the transaction or it was a case of failure to perform the promise, would be a matter for adjudication at the trial. In any event, the applicant has been in custody since 14th October, 2021. In the backdrop of the period of incarceration and the nature of the accusation, further detention of the applicant as an undertrial prisoner does not seem warranted. The applicant

has roots in society. The possibility of fleeing away from justice seems remote. Therefore, I am impelled to exercise discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The applicant be released on bail in C.R. No.395 of 2021 registered with Kashimira police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.
- 3] The applicant shall mark his presence at Kashimira police station on the first Monday of every month between 11 am to 1 pm for a period of three years or till conclusion of the trial, whichever is earlier.
- 4] The applicant shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
- 5] The applicant shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.
- 6] The applicant shall regularly attend the proceedings before

the jurisdictional Court.

7] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)