



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2219 OF 2024

Pawan Chandraprakash Tiwari

...Applicant

vs.

The State of Maharashtra

...Respondents

Mr. Manoj Kumar Tiwari a/w Mr. Pratik Molasi	Advocate for the Applicant
Ms. S. E. Phad	APP for the Respondent-State

CORAM : S. M. MODAK, J.

DATE : 05th DECEMBER 2024

P. C. :-

1. Heard learned Advocate for the accused and learned APP.
2. The Applicant is behind bar in connection with an offence bearing CR No. 977 of 2019 registered with Waliv Police Station, Vasai. The offences are under Section 420 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 and under Sections 4, 3 read with 13 of Maharashtra Ownership Flats Act 1963.
3. Charge sheet is filed against seven persons. Two are arrested. Accused no. 2 is granted bail, whereas present Applicant is accused no. 1.

4. The sum and substance of the allegation from the charge sheet is:-

- a) in all 16 flat purchasers have parted away amount and total amount comes to Rs. 63,08,877/-. The details are given in para no. 10 of the affidavit page no. 752.
- b) four entities are there. The Applicant is connected to M/s Prabhav Builders and Developers and M/s Kritika Builders and Developers.
- c) He is having major share in those firms. Details are given in the chart on page no. 755.
- d) Various flat purchaser have parted away the amount towards the consideration of the flats. They were assured that the building will be constructed and flat will be handed over, though the Applicant started with construction, it could not be completed.
- e) The flat purchasers were not handed over the possession of the respective flats and the money also.

5. Learned APP has taken plea through various materials collected alongwith charge sheet and contents of the affidavit also. There are also previous offences against the Applicant. The details are given in para

no. 12, page no. 753 of the affidavit.

6. From the above it can very well say that there are sufficient materials against the Applicant. He has made promises to flat purchasers who have parted away the money and the Applicant was not fulfilled his promises.

7. So on the merits, I am not inclined to grant bail. The Bail to co-accused is granted on different ground. Be that it may, he is behind bar since 12.06.2022. Yet the charges are not framed. There cannot be detention by way of punishment.

8. So on account of fact that trial is not commenced, I am inclined to grant him bail. Hence, the following order is passed:-

ORDER

(i) Bail application is allowed.

(ii) The Applicant-Pawan Chandraprakash Tiwari arrested in connection with C.R. No. 977 of 2019 registered with Waliv Police Station, Vasai for the offence punishable under Section 420 read with 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Protection of Interest of Depositors Act, 1999 and under Sections 4, 3 read with 13 of Maharashtra

Ownership Flats Act 1963 be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/- liberty to furnish bail of Rs. 25,000/- each.

(iii) After release from bail, he is directed to give attendance to Waliv Police Station on first Monday of the Months of January, May and October from 10.00 a.m. to 12.00 noon till conclusion of the trial.

(iv) Applicant shall not threaten the prosecution witnesses.

9. Application is disposed of in the aforesaid terms.

10. All the Parties to act on an authenticated copy of this order.

11. It is made clear that the these are my prima facie observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order

[S. M. MODAK, J.]