

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

ANTICIPATORY BAIL APPLICATION NO. 98 OF 2024

Avinash Pandurang Gharat

..Applicant

Versus

The Sr. Police Inspector & Anr.

..Respondents

Mr. Mateen Shaikh a/w. Muskan Shaikh a/w. Raj R. Bhoir for
Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 16 JANUARY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No.457 of 2023, registered at Panvel city Police Station, Navi Mumbai, on 07.08.2023, under Sections 420 and 406 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Mateen Shaikh, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by one Gangaram Samant who was a managing committee member of M/s. Pioneer Co-op. Housing

society, at Panvel. The members of the society entered into redevelopment contract with M/s. Akshay Developers. Smt. Sunita Joshi and Smt. Nirmala Shah were the partners of the said developers. The F.I.R. mentions that the first development agreement was executed on 28.09.2012. There were 46 members of the society. They were to get flats with additional 100 sq.ft. area. The building was to be completed by 2014. In 2015, it was agreed that they would try to get additional F.S.I. from the Municipal Corporation. Accordingly, additional F.S.I. was granted. It was agreed between the developer and the society that, there would be 10 flats kept reserved in favour of the society and would not be sold. Out of those 10 flats the developer sold six flats unauthorisedly causing heavy loss to the society. On this allegation, the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that his name is not mentioned in the F.I.R. He was merely a contractor and he had raised bills for his work and for the material which he had supplied. That amount has gone in his bank account. The investigating agency is wrongly interpreting that the applicant is

one of the partners or was actively involved with the affairs of the developer. He submitted that, he had nothing to do with the sale of those six flats. He submitted that the other accused Sunita Joshi and Bhavesh Jain who are the partners of M/s. Akshay Developers are granted ad-interim protection in A.B.A.No.2977 of 2023 and A.B.A.No.3033 of 2023.

5. Learned APP submitted that, there are certain documents on which the applicant has signed for M/s. Akshay Developers. He has received more than Rs.2 crores in his company's account, as well as, in his personal account. According to the prosecuting agency, he was actively involved in the transaction of sale of those flats.

6. I have considered these submissions. At this stage, it appears that the applicant's role may not be higher than the role of partners of the said developers. Their anticipatory bail applications are pending and are slated to be listed on 24.01.2024. Therefore, the present application can also be placed on the same date to be heard along with those two applications. Since the applicants in

those two applications are granted ad-interim protection, the present applicant can also be granted ad-interim protection, in the meantime. Learned counsel for the applicant, as well as, the learned APP seek liberty to file their respective affidavits.

7. Hence, the following order.

ORDER

- i) In the event of his arrest in connection with C.R.No.457 of 2023, registered at Panvel city Police Station, Navi Mumbai, till the next date, the Applicant be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) This order shall operate till 24/01/2024.
- iii) The Applicant shall attend the concerned Police Station on 22.01.2024 between 1.00p.m. to 5.00p.m. and shall cooperate with the investigation.
- iv) The applicant is at liberty to file additional affidavit.
- v) Learned APP is at liberty to file affidavit in reply.

vi) This application is to be heard along with A.B.A.No.2977 of 2023 and A.B.A.No.3033 of 2023.

vii) Stand over to 24/01/2024.

(SARANG V. KOTWAL, J.)