

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 391 OF 2024

Jitendra Harilal Parikh ...Applicant

Versus

State of Maharashtra and anr. ...Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO. 572 OF 2024

Vinod Suresh Hirani ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 573 OF 2024

Daksha Shah ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 574 OF 2024

Paresh Shah ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 575 OF 2024

Manoj Raje ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO. 576 OF 2024

Srinivas Surkanti ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. Akshay Kapadia, for the Applicant in ABA/391/2024.

Mr. Bhushan Mahadik, a/w Neha Sule i/b Mahadik and
Associates, for the Applicants in ABA/572, 573, 574,

575 and 576 of 2024.

Mr. A. A. Naik, APP for the State.

Ms. Gayatri Shahane, for the Original Complainant.

CORAM: N. J. JAMADAR, J.

DATED: 21st OCTOBER, 2024

ORDER:-

1. These applications are preferred for pre-arrest bail in connection with CR No.866 of 2023, registered with Vileparle Police Station, Mumbai, for the offences punishable under Sections 120B, 406, 420, 418, 417 and 409 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

2. The applicants in ABA Nos.391, 572, 573, 574, 575 and 576 of 2024 are allegedly the members of the Managing Committee and/or office bearers of Om Prabhu Ashish Cooperative Housing Society Ltd. ("the Society"). The applicant in ABA/572/2024 claims to be a consultant.

3. The gravamen of indictment against the applicants is that the applicants had induced the first informant to invest huge amount for redevelopment of the said Society premises suppressing the fact that the Society had already entered into a development agreement with a prior developer, and security interest over the Society premises was already created in favour of the lender, Piramal Trusteeship Services Pvt. Ltd. As there

was default in repayment of the said amount, proceedings were initiated before National Company Law Tribunal ("NCLT"). Yet the applicant fraudulently induced the first informant to part with an amount in excess of Rs.75,00,000/- by entering into a transaction for redevelopment of the Society premises.

4. On 27th February, 2024 in ABA/391/2024, this Court was persuaded to grant interim pre-arrest bail to the applicant therein observing, *inter alia*, as under:

"9. *Prima facie* it appears that the applicant was a member of the managing committee, whether the intention of the applicant was dishonest since the inception of the transaction would be a matter for investigation. The learned Counsel for the applicant, on instructions, submitted that the applicant is willing to deposit a sum of Rs.1,85,000/- which was credited to the account of the applicant. In the circumstances, till the matter is heard after providing an opportunity to the first informant, it may be expedient to protect the liberty of the applicant."

5. Thereafter, on 5th March, 2024 the same dispensation was extended to the applicants in ABA Nos.572, 573, 574, 575 and 576 of 2024.

6. I have heard Mr. Akshay Kapadia, the learned Counsel for the applicant in ABA/391/2024, Mr. Mahadik, the learned Counsel for the applicants in ABA Nos.572, 573, 574, 575 and 576 of 2024, Mr. Naik, the learned APP for the State and

Ms. Gayatri Shahane, the learned Counsel for the first informant – respondent No.2.

7. The learned Counsel for the applicants submitted that the applicants have appeared before the Investigating Officer and cooperated with the investigation. The alleged offences revolve around documents. At this stage, the custodial interrogation of the applicants is not warranted.

8. The learned APP, on instructions, submitted that the investigation has reached an advanced stage. The Investigating Officer proposes to file charge-sheet against the applicants except Jitendra Harilal Parikh, the applicant in ABA/391/2024. as the investigation had not revealed the complicity of Jitendra Harilal Parikh. At this stage, the Investigating Officer does not require the custody of the applicants. A report submitted by Senior Police Inspector, Vileparle Police Station, was tendered for the perusal of the Court.

9. Ms. Shahane, the learned Counsel for respondent No.2 – first informant, however, submitted that the applicants have defrauded the first informant by suppressing facts which could not have been suppressed. Attention of the Court was invited to the orders passed by NCLT in the Corporate Insolvency Resolution Petition filed against M/s. Shamik Enterprises Pvt.

Ltd., the erstwhile developer. It was submitted that the allegations against the applicants are grave and, therefore, they do not deserve the relief of pre-arrest bail.

10. I have perused the material on record. The aspect as to whether the intention of the applicants was dishonest since the inception of the transaction or the applicants professed to enter into the transaction on the premise that the earlier development agreement came to an end, would warrant adjudication at the trial. Evidently, the alleged offences revolve around the documents. The investigation has reached an advanced stage. The Investigating Officer has almost concluded the investigation and proposes to file charge-sheet against the applicants save and except Jitendra Harilal Parikh, the applicant in ABA/391/2024. A categorical statement is made that the Investigating Officer does not require the custody of the applicants.

11. In the aforesaid view of the matter, I am persuaded to make the orders of interim bail absolute.

12. Hence the following order:

: O R D E R :

(i) Applications stand allowed.

- (ii) The orders of interim bail dated 27th February, 2024 in ABA/391/2024, and dated 5th March, 2024 in ABA Nos.572, 573, 574, 575 and 576 of 2024 are made absolute on the terms and conditions incorporated therein.
- (ii) In addition, the applicants shall regularly attend the proceedings before the jurisdictional court.
- (iii) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Applications stand disposed.

[N. J. JAMADAR, J.]