



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO.640 OF 2023

(Mukhtiyar Singh Bhatti s/o Sukhvinder Singh Bhatti Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A.A. Dhawas, Advocate for the applicant.
Ms Sneha Dhote, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 1, 2024.

Heard.

2. By this application, the applicant is seeking anticipatory bail in connection with Crime No.7/2022 registered with police station Padoli, District Chandrapur for offence punishable under Sections 409 and 420 read with Section 34 of the Indian Penal Code and Sections 13(1)(2) and 14 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963.

3. Learned Counsel for the applicant submitted that the accusation is made against the present applicant is on the basis of report lodged by Sadashiv Jayram Wankhede alleging that he is retired employee and in the year 2019 he agreed to purchase two flats for consideration amount of Rs.11,00,000/- each in his name and in the name of his wife. Towards the consideration amount, he had paid Rs.20,00,000/- on different dates by

issuing the cheques in favour of the present applicant. The present applicant who are running the firm namely M/s. Ankit Builders and Developers. In the month of December construction work of the apartment was commenced but thereafter no further construction was made and the possession of the flat was not handed over. Upon making an enquiry, one of the accused namely Snehankit Ramesh Moon refunded Rs.4,50,000/- in January, 2021. It is further alleged that on information it revealed that plot Nos.83 and 84 were sold by the present applicant and other co-accused in favour one Nirmala Hasani and thus the complainant is duped by the present applicant and other co-accused.

4. Learned Counsel for the applicant submitted that considering the nature of the allegations admittedly, the dispute between the parties is of a civil nature, physical custody of the present applicant is not required. Some amount is already returned by the present application and other co-accused. As far as the investigation part is concerned only documentary evidence is to collected, and therefore, the custodial interrogation of the present applicant is not required.

5. Learned Additional Public Prosecutor strongly opposed the application on the ground that it is not only the case of breach of and agreement and the complainant is not only deceived but there is a criminal breach of trust and misappropriation of the amount. In view of that the

custodial interrogation of the present applicant is required and application deserves to be rejected.

6. Having heard learned Counsel for the parties. Perused the investigation papers. It reveals that the complainant entered into an agreement to purchase the flats and also paid the consideration amount. As per the allegations the said flats were sold by the applicant and other co-accused to other persons. It also reveals from the allegations that one of the co-accused has already paid Rs.4,50,000/- to the complainant. *Prima facie*, the dispute arises is in the nature of the breach of an agreement. As far as the custodial interrogation is concerned, which is not required as entire evidence is in the nature of the documents. Considering the same, the interim protection granted in favour of the present applicant deserves to be confirmed. Accordingly, I proceed to pass following order :

- (i) In the event of arrest, the applicant – Mukhtiyar Singh Bhatti s/o Sukhvinder Singh Bhatti in connection with Crime No.7/2022 registered with police station Padoli, District Chandrapur for offence punishable under Sections 409 and 420 read with Section 34 of the Indian Penal Code and Sections 13(1)(2) and 14 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963, be released on anticipatory bail on executing

a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(ii) The applicant shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.

(iii) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*