

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 1476 OF 2025

Vijay Rajendra Shirke	.. Applicant
Versus	
The State Of Maharashtra	.. Respondent

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- Ms. Priti R Mahajan a/w Mr. Santosh B. Patil, Advocate for Applicant.
 - Mr. Hitendra J. Dedhia, APP for State.
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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 16, 2025

P. C.:

1. Heard Ms. Mahajan, learned Advocate for Applicant and Mr. Dedhia, learned APP for State.

2. Applicant is a developer of a building who had constructed a building in respect of which completion certificate was already obtained by him according to the sanctioned plan. An unfortunate incident has taken place on 20.01.2025 in the said building when a young girl child aged 5 years who was visiting a relative of hers along with her family members for attending Satyanarayan Pooja in the building met with an unfortunate fatal fall when she went to the 4th floor of the building and fell down to the ground leading to the incident in question. Applicant is indicted under Section 105 of the BNS and arrested on the same date being the

developer who had constructed the building under a development agreement for the owner of the land.

3. Learned Advocate for Applicant would submit that the untimely incident which occurred was unfortunate but invoking action against Applicant who is the developer of the building is incorrect since he cannot be held responsible for the incident which has occurred. She would submit that Bail Application of the Applicant bearing No.667 of 2025 was filed in this Court which was withdrawn by order dated 06.03.2025 with liberty to approach the trial Court for grant of bail since chargesheet was filed during the interregnum. The learned trial Court *vide* its order dated 24.03.2025 rejected the Bail Application of the Applicant and hence present Application is filed before this Court.

4. From the pleadings in the Application it is *prima facie* seen that Applicant is indicted because he had not fixed a grill in the passage area between 4th and 5th floor which led to the unfortunate incident of a 5 years old girl child slipping and falling to the ground. Relative of the victim was occupant of Room No.208 on the second floor of the said building. In November, 2024, the said relative who is the First Informant purchased room No.308 on the 3rd Floor of the said building from the land owner vendor and in that regard Satyanarayan Pooja was organized in Room No.308 on the 3rd Floor on the date of

incident. It is seen that at that time the victim girl child went to the 4th Floor unattended on her own and apparently slipped in the gap / passage of the 4th floor and fell to the ground. The culpability of the Applicant who is a developer of the building in the present case and who has handed over the building to the land owner is indicted by the prosecution. Learned Advocate for Applicant would submit that the development agreement was executed by the developer and the land owner who is the vendor of Room No.308. That apart she would submit that the liability to provide safety was on the land owner who was the owner of the building or the vendor of rooms / flats and not the developer who had constructed the building.

5. Considering invocation of Section 105 of the BNS Act, case of Applicant deserves to be considered in the aforesaid facts for bail.

6. Learned APP is directed by the Court to ascertain the veracity of the submissions made by the learned Advocate for Applicant and accordingly apprise the Court about the same from the chargesheet as also record of the case.

7. Learned Advocate for Applicant is directed to place on record a copy of the chargesheet by duly serving a copy of the same on the learned APP appearing in the matter.

8. Stand over to 30th April, 2025.

ER. Rajput

[MILIND N. JADHAV, J.]