HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.77 OF 2025

Zahid Iltija Khan S/o Iltija Khan .. Applicant
Versus
State of Maharashtra .. Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.78 OF 2025

Zahid Hussain Khan S/o Iltija Hussain Khan @ Zahid Khan S/o Iltija Khan .. Applicant
Versus
State of Maharashtra .. Respondent

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- Mr. Ganesh Kole a/w. Mr. Arif Ali, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent – State of Maharashtra in Anticipatory Bail Application No.77 of 2025.
- Mr. Balraj B. Kulkarni, APP for Respondent – State of Maharashtra in Anticipatory Bail Application No.78 of 2025.
- API – Mr. A. R. Nanaware, Nagpada Police Station.

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CORAM : MILIND N. JADHAV, J.
DATE : JANUARY 13, 2025

P.C.:

1. Heard Mr. Kole, learned Advocate for Applicant; Ms. Newton, learned APP for Respondent – State of Maharashtra in Anticipatory Bail Application No.77 of 2025 and Mr. Kulkarni, learned APP for Respondent – State of Maharashtra in Anticipatory Bail Application No.78 of 2025.

2. Both these Anticipatory Bail Applications are heard together since they are filed by Accused No.3 arraigned in the same crime. The

Complainants are different and amounts paid by Complainants to the Accused are different. At appropriate place the same is dealt with.

3. Applicant before me is arraigned as Accused No.3 in Crime No.870 of 2021 registered with Nagpada Police Station, Mumbai. Accused No.1 is Abdul Karim Khan, Accused No.2 is Zafur Siddiqui whereas Accused No.3 is Applicant before me namely Zahid Iltija Khan. Allegation of the prosecution is on the basis of complaint filed by two Complainants that Accused No.3 is partner of a firm called Blue One Realty Limited wherein Accused Nos.1 and 2 are also partners and in course of business the said firm received substantial amounts from the two Complainants against sale of flats which were not delivered.

4. In the Complaint filed by one Dr. Quamar Jahan Mohd. Ismail Shaikh on 21.12.2021, it is case of Complainant and prosecution that one person called Zahid Ansari introduced Complainant and her family members to Accused Nos.1 and 2 namely Abdul Karim Khan and Zafur Siddiqui of Blue One Realty Limited in their office for booking of flat which Complainant was desiring to purchase. Complainant alongwith family members met Accused Nos.1 and 2 some time in 2013 and evinced interest in purchasing flat in one of their re-development project called 'Sadaf Palace' situated at Ghelabhai Street, Madanpura, Mumbai and agreed to purchase flat therein in that Development Project.

5. Complainant – Dr. Shaikh paid an amount of Rs.10,85,000/- by cheque to Accused Nos.1 and 2 alongwith amount of Rs.20,15,000/- in cash. She was issued receipt by Accused Nos.1 and 2 and more specifically the deal was made with Accused No.2 – Zafur Siddiqui who shared all details of the alleged Flat No.1002 to be sold to her. Allotment letter in respect of said flat was also issued to said Complainant – Dr. Quamar Jahan Mohd. Ismail Shaikh in 2013. This transaction took place in April – 2013. Thereafter on 25.09.2013, Complainant paid one more installment of Rs.10,00,000/- in cash to Accused Nos.1 and 2 in their office. Thereafter Complainant did not see the development happening and therefore repeatedly inquired with Accused Nos.1 and 2 about completion of the project.

6. In the year 2018, Complainant alongwith family members approached Accused Nos.1 and 2 in their office when they offered to sell to Complainant a substitute flat in place of the earlier flat which was involved in a controversy as the project could not be completed. Substitute flat was shown to the Complainant and family members in a building called 'Ajmal Heights' which was developed by the same Accused Nos.1 and 2 in 2nd Ghelabhai Street, Madanpura, Mumbai. Complainant was shown two flats namely Flat Nos.1405 and 1002 and out of them it appears that Complainant chose Flat No.1002. It is stated in the Complaint that since Complainant had already invested substantial amount she was harassed with the fact that she did not receive the flat and thereafter she took the steps of taking the alternate flat offered by Accused Nos.1 and 2 to her. This transaction of the second flat transpired in the year 2018.

7. In October – 2019, Accused No.2 called upon Complainant and asked her to deposit Demand Draft of Rs.4,59,000/- towards stamp duty and registration charges with the Collector of Stamp which Complainant duly complied. Complainant was called for registration on 31.12.2019 on 07:00 a.m. in the morning alongwith the challan. The Complainant alongwith family members went to the registration office on 31.12.2019 on which date Accused No.2 did not turn up for registration and since then Complainant has suffered. Thereafter when she established contact with him after March – 2020, the alibi given by Accused was due to COVID Pandemic. In October -2020, the Complainant was upset and she withdrew the amount paid towards stamp duty and registration by her so that she could get refund of that amount lest the Complainant could have lost that amount after a period of one year. Being harassed during the above timeline, Complainant ultimately filed the present Complaint on 21.12.2021.

8. The case of Complainant in the second case before me is no different. In the second case, Complainant is a lady called Smt. Bushra Mohd. Iqbal Ansari who in a similar *modus operandi* approached Accused Nos.1 and 2 through Zahid Ansari who was a distant relative of Complainant. Zahid Ansari introduced the Complainant to Accused No.2 i.e. Zafar Siddiqui some time in the year 2014. They agreed to purchase a flat in one of the Development Project through Blue One Realty by agreeing to pay 60 % in cash and 40% by cheque. The total flat consideration was determined at Rs.1,14,75,000/- out of which Complainant Smt. Bushra Mohd. Iqbal Ansari paid an amount of Rs.66,50,000/- (wrongly calculated and computed as Rs.68,50,000/-) on four different dates between 10.05.2014 and 18.12.2014. According to case of Complainant and Prosecution, Complainant has paid an amount of Rs.68,50,000/- to Accused No.2 for which Accused No.2 has issued receipts to her. This Complainant has also met the same fate as the earlier Complainant because as promised Accused No.2 did not complete the registration process. This Complainant on instructions of Accused No.2 has paid an amount of Rs.8,00,000/- towards stamp duty, registration as informed to her and waited for Accused No.2 to turn up for registration on 27.01.2020. Accused No.1 and 2 namely Abdul Karim Khan and Zafar Siddiqui did not turn up for registration leading to suffering of Complainant. Applicant thereafter filed present Complaint dated 05.03.2021 which is registered as a separate crime. In so far Applicant is concerned, his name is Zahid Iltija Khan.

9. Mr. Gole would at the outset inform the Court that the present Applicant before the Court is not the same as the person who is alleged to be the introducer of Complainants and his name Zahid Ansari in the twin First Information Reports (for short '**FIR**'). He would however submit that indictment of present Applicant is apprehended in the present crime where the Applicant received a notice under Section 41 A of Code of Criminal Procedure, 1973 to cooperate with the investigation. He would submit that Applicant before the Court was a partner of Blue One Realty but he had retired from the said partnership firm as far back as in the year 2012 and the retirement deed is appended at page No.493 of the Application. He would submit that indictment of Applicant is on the basis that Applicant received certain amounts from Blue One Realty Bank Account as alleged by prosecution but in the same breath he would also submit that in the disclosure made before the Investigating Officer, the Investigating Officer has not taken into account the relationship between the parties whereby amount has also been advanced by the Firm of Applicant called Onyx Builder to Blue One Realty. He would submit that in that view of the matter, Applicant cannot be made responsible and liable for the Complaint which has been alleged by both the Complainants. He would submit that Applicant has no role to play whatsoever in the transaction in question.

10. ***PER CONTRA***, Ms. Newton and Mr. Kulkarni, learned APPs in both the matters would submit that the Investigating Officer has called the Applicant and who made certain disclosures. On the basis of disclosure, the case of prosecution is made out against Applicant on the basis of his Bank statement which has been submitted. Learned APPs would submit that Bank statement clearly reveals that there is a relationship between the parties and monies have been received from Blue One Realty in to the Bank account of Applicant.

11. Merely because monies have been received cannot be reason for indictment of Applicant. Custodial interrogation in this case is not at all required when it is pointed out to me that the entire Bank account statement has been disclosed by the Applicant of Axis Bank which is appended to the Application. I have seen the same.

12. *Prima facie*, perusal of this Bank account shows that there are substantial transactions between the parties. By no stretch of imagination, can the Applicant be held to have played any role as his role is not depicted in the FIR which is lodged by the Complainant which is delineated hereinabove. In view of my above observations and the fact that the disclosure had been made by him, custodial interrogation of the Applicant is not required. However, the Applicant shall cooperate with the Investigation and furnish all other details which form part of the investigation. In view of the above, an arguable case has been made out for grant of Anticipatory Bail. Both Applications stand allowed in following terms:-

(i) In the event of the arrest in C.R.No.870 of 2021 and C.R.No.48 of 2021, Applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each in both the crimes with one or two sureties in the like amount;

(ii) Applicant shall report to the Investigating Officer at concerned Police Station, once every month on the first Monday of the month and as and when called for by the Investigating Officer for investigation;

(iii) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within one week from today;

(iv) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence; and

(v) It is directed that Applicant shall extend complete cooperation in the investigation of the instant case.

13. Parties to act on a server copy of this order.

14. Both Anticipatory Bail Applications stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT

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