

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 178 OF 2025

Nasir Mohammed Yusuf Shaikh

.. Applicant

Versus

State of Maharashtra

.. Respondent

.....

- Mr. Shadab Khopekar a/w Mr. Jahangir Iqbal for Applicant
- Ms. Savita M. Yadav, APP for State
- Mr. Rajendra Kumbhar, API; Mr. Sunil Sonawane (Pairavi), PSI Charkop Police Station are present

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 21, 2025

P. C.:

1. Heard Mr. Khopekar, learned Advocate for Applicant and Ms. Yadav, learned APP for State.

2. Applicant - accused No. 2 has filed the present Application for anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No. 417/2024 registered with Charkop Police Station, Mumbai under Sections 420, 465, 467, 468, 471 & 34 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Applicant before me is arraigned as accused No. 2. Accused No. 1 is the president of "Parishram Co-operative Housing Society" . Said project is developed by M/s. Lakdawala Developers Pvt Ltd wherein

complainant intends to buy one flat admeasuring 320 sq.ft. for consideration of Rs. 15,00,000/-. His case is that he paid Rs. 15 Lacs to accused No. 1 in presence of accused No. 2 who is the Applicant before me. Charge of the prosecution against accused No. 2 is that he being the Manager of M/s. Lakdawala Developers Pvt. Ltd. had received the entire amount.

4. The statement of the Applicant has been recorded and my attention is drawn by learned APP to the statement appended at page No. 36. Perusal of the same clearly shows that accused No. 2 was working as Manager with M/s. Lakdawala Developers Pvt. Ltd. from 2002 to 2012. Thereafter he left the said job. Transaction in question pertains to the year 2011. The record clearly shows that M/s. Lakdawala Developers Pvt. Ltd. issued an allotment letter to the complainant. Complainant ought to have insisted upon entering into a registered agreement which the complainant did not do so right until complainant filed the present complaint. The only documentary evidence that the complainant has is the allotment letter issued by the said developer. Indictment of the Applicant in the present crime is therefore doubtful considering the role of the Applicant before me.

5. Ms. Yadav would vehemently submit that there are two antecedents of Applicant in as much as he has committed similar *modus operandi* with respect to other persons who are also similarly

placed and who had purchased the flats in the same project. If that be the case, it would be open to the aggrieved parties to take appropriate action in law. In any event, *prima facie* filing of the present complaint in the facts which I have delineated herein above is itself hit by gross delay and laches. That apart the issue otherwise would be a completely civil issue. However the aforesaid observations are merely for the purpose of deciding the present Application and they will not be considered as expression of the Court for deciding the case / compliant of the complainant.

6. In view of the above, present Application stands allowed in terms of prayer clause (a) on the following terms and conditions:-

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iii) Applicant shall attend the Police Station on the first Monday of every month between 10.00 a. m. and 12.00

noon and as and when called for by the investigating officer thereafter;

- (iv) Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

7. Application is allowed in the aforesaid terms and is accordingly disposed of.

8. All concerned to act on the authenticated copy of this order.

[MILIND N. JADHAV, J.]

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