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

Anticipatory Bail Application No.2025 of 2025

Nishit Yogesh Kakka
Adult, Indian Inhabitant,
Age: 43 yrs, Occ: business
R/at B/907, Shankar Park,
Shankar Lane, Kandivali West
Mumbai-400067. ...Applicant

Vs.

The State of Maharashtra
(at the instance of Dindoshi
Police Station vide CR No.272
of 2025) ...Respondent

Mr Ishaan Patkar, a/w Jindagi Shah, Vinit Raje and Yashwant Patil for the applicant.
Mr Prashant Jadhav, APP for the respondent / State.
PSI Bhushan Devare,I.O., Dindoshi police station.

Coram : R.N.Laddha, J.
Date : 23 July 2025.

P.C. :

By this application, the applicant seeks pre-arrest bail in connection with CR No.272 of 2025, registered at Dindoshi Police Station, Mumbai, for offences punishable under Sections 406 and 420 of the Indian Penal Code.

2. The prosecution contends that between March 2016 and December 2017, the applicant engaged in a deliberate and

fraudulent scheme to deceive the informant and unlawfully obtain a sum of Rs.1,24,99,500/-. According to the prosecution, the applicant induced the informant to part with this amount by falsely promising to sell him four row houses in a real estate development known as "Shriji Villas", situated in Igatpuri, Nashik. To lend credibility to this promise and gain the informant's confidence, the applicant and the informant executed an unregistered Memorandum of Understanding. On the strength of this agreement, the applicant received the funds from the informant in multiple instalments over a period of time. However, upon the project's completion, the applicant betrayed the informant's trust by selling the same row houses to third parties.

3. Mr Ishaan Patkar, the learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, submits that the alleged offence, if any, is stated to have taken place between March 2016 and December 2017. However, the FIR in the present matter has been registered only on 29 April 2025, after an inordinate and unexplained delay of several years. This delay, according to the learned Counsel, surpasses the period of limitation ordinarily prescribed for initiating civil proceedings, thereby raising serious doubts about the *bona fides* of the informant's intentions. The informant has sought to give

a criminal complexion to what is, in essence, a civil dispute. The learned Counsel submits that such abuse of the criminal justice process must not be permitted, especially when the core issues pertain to matters that could be adequately adjudicated in a civil forum.

4. Moreover, Mr Patkar submits that the custodial interrogation of the applicant is neither necessary nor justified, as all the relevant documentary evidence is already in the possession of the investigating agency. The applicant has extended full cooperation and remains willing to abide by any conditions that may be imposed by this Court.

5. At the outset, Mr Prashant Jadhav, the learned Additional Public Prosecutor representing the respondent/ State, on instructions from the investigating officer present in the Court, submits that the investigation has concluded, and nothing remains to be recovered or discovered from the applicant. He further states that the prosecution does not seek the applicant's custodial interrogation.

6. Upon perusing the records, it appears that a Memorandum of Understanding was executed between the contesting parties in the year 2016 concerning four bungalows. However, one of these bungalows was subsequently transferred

to a third party nominated by the informant. The core dispute thus appears to revolve around the remaining three bungalows. The documentary material available on record *prima facie* shows that the informant made a partial payment amounting to Rs.45,29,000/- against the total agreed consideration of Rs.1,11,00,000/-. Although the informant now asserts that the balance amount was paid in cash to the applicant, there is a conspicuous absence of cogent or credible evidence on record to substantiate such a claim. It further appears from the record that the informant's failure to fulfil his financial obligations under the MOU, the applicant appears to have been constrained to alienate the three disputed bungalows in the year 2022. Furthermore, the FIR, *prima facie*, suggests that the matter arises predominantly from a civil transaction and does not *prima facie* disclose the ingredients of a criminal offence. It is further pertinent to note that the informant lodged the present FIR only in April 2025, after an inordinate delay of more than seven years, and well beyond the period of limitation for initiating civil proceedings. The prosecution's case is heavily reliant on documentary evidence, all of which is in the custody of the investigating agency. Additionally, the investigation has concluded, and nothing is to be recovered or discovered from the applicant. Furthermore, the prosecution does not seek the applicant's custody.

7. Considering the totality of the circumstances and the material on record, this Court finds it appropriate to exercise its discretion in favour of the applicant. Accordingly, the following order is passed:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.272 of 2025, registered at Dindoshi Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant, himself or through any other person, shall not tamper with the evidence or influence witnesses.

8. The application stands disposed of accordingly.

[R. N. Laddha, J.]