

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

ANTICIPATORY BAIL APPLICATION NO. 3126 OF 2025

Monica Shah

...Applicant

V/s.

The State of Maharashtra

...Respondent

**WITH
INTERIM APPLICATION (ST) 23099 OF 2025**

Mr. Dilip Shukla, Advocate for the Applicant.

Mr. R. M. Pethe, APP for the Respondent/State.

Mr. Vinit Jain a/w Adv. Shivani Karnik, Advocate for Intervener.

CORAM : N.R. BORKAR, J.
DATE : 01.12.2025.

P.C. :

1. This is an application for Anticipatory Bail.
2. The applicant is apprehending her arrest in Crime No. 1095 of 2024 registered at Khar Police Station, for the offences punishable under Sections 406 & 420 read with 34 of the Indian Penal Code, 1860.
3. The complainant is a non-resident Indian. The complainant desired to settle in Mumbai after his retirement and therefore, in 2010, he was looking for a commercial premise for his office in Mumbai. In the month of May 2010, the complainant's

friend introduced him to the applicant and other co-accused who were partners of a firm Parthesh Developers and were developing a commercial project namely 'Yantrik Building' at Santacruz (West). It is alleged that the complainant paid them an amount of Rs.1,06,91,120 towards purchase of office premise of 786 sq. ft. and they assured him that he would receive the possession by 2013. However, in 2013, co-accused Nirav Shah informed the complainant that the project had stalled due to financial issues. He persuaded the complainant to divert his consideration amount to their other project namely Ganga Jamuna at Khar (West) where a 3BHK flat was offered to the complainant for Rs. 2.6 Crore. The complainant was advised to pay Rs.1 Crore more to avoid losses. It is alleged that from 2014 to 2021, the complainant paid them further amount of Rs.50,00,000/- however the applicant and other co-accused failed to deliver possession of the flat premises to the complainant and thereby defrauded the complainant to the tune of Rs. 1,56,00,000/-.

4. I have heard the learned counsel for the applicant, the learned APP for the respondent-State and the learned counsel for the Intervener-complainant.

5. The learned counsel for the applicant submits that there is a delay in lodging the FIR. It is submitted that circumstances on record belies the case of the complainant that applicant and other co-accused had intention to defraud the complainant from inception. The learned counsel for the applicant submits that sections 406 and 420 of the Indian Penal Code cannot co-exist simultaneously and in support of the said submission, the learned counsel for the applicant has relied upon the decision of the Hon'ble Supreme Court in ***Delhi Race Club (1940) vs. State of U.P.***¹. It is submitted that the dispute, if any, between the parties is of purely civil nature. It is submitted that the complainant has suppressed the fact that he has filed the proceedings before MahaRERA, for refund of Rs.2,06,00,000/-. It is submitted that main allegations are against the co-accused - Nirav Shah. It is submitted that there is no need of custodial interrogation and the applicant is ready and willing to co-operate in the investigation.

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6. On the other hand, the learned APP for the respondent-State and the learned counsel for the intervener submit that the applicant is involved in a serious crime of defrauding the complainant to the tune of Rs. 1,56,00,000/-. It is submitted that the applicant had signed on multiple payment receipts as well as draft agreements, which shows that she was an active partner and was aware about the transactions in question. It is submitted that the applicant is involved in two more crimes of similar nature. It is thus submitted that the application be rejected.

7. I have perused the First Information Report and the documents on record. *Prima-facie*, Section 420 of the Indian Penal Code would attract in the facts and circumstances of the present case. From the documents produced on record it cannot be said that the applicant was only nominal partner. The applicant is involved in two more crimes of similar nature. Considering the said facts, I am not inclined to release the applicant on anticipatory bail. The application is rejected.

8. Interim application is disposed of.

[N.R.BORKAR, J.]