

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

ANTICIPATORY BAIL APPLICATION NO. 1322 OF 2024

Savita Ghanshyam Gajare

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. M. K. Kocharekar for Applicant.

Mr. Avinash A. Naik, APP for State/Respondent.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 9 MAY 2024

P.C. :-

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 167 of 2024 registered at Goregaon Police Station, Mumbai, on 05.03.2024, under Sections 406, 409 and 420 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Kocharekar, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The F.I.R. is lodged by one Ajay Rajput. He has stated that, in the year 2020 he was in search of a flat. He came to know that one project by the name Samruddhi Heights was being

developed in his area. It was in the land of Shanti Co-operative Housing Society and the building was being constructed under the re-development project. The informant went to the site of the project in January 2021. He went to their office. He met one Balkrushna Kalambekar who told the informant that he was developing that building. He further told the informant that the building of 18 floors was proposed and it would be completed within one year. The informant told him that he wanted a flat of around 650 sq.ft. Kalambekar told him that the flats upto 13th floor were sold and he could purchase a flat on the 15th floor. The informant decided to purchase the Flat No.1503 on the 15th floor for Rs.1,40,00,000/-. Initially, he paid Rs.10 lakhs to Kalambekar. He gave allotment letter to the informant. But subsequently, the agreement was not executed and the registration was not made in the informant's name. The informant made enquiries on the B.M.C's website and came to know that the said flat No.1503 was sold by the present applicant, who was the owner of M/s. Sarathi Construction, to one Disha Shah on 09.06.2022. The informant met Kalambekar and questioned him. At that time, Kalambekar

told the informant that the site was belonging to the applicant and Kalambekar was developing that site. The informant was told by Kalambekar that C.C. for 15 floors was not yet given and he could give a flat on the 13th floor to the informant. The informant met the applicant and told her about his booking for Flat No.1503. At that time, the applicant told the informant that authority to sell the flats was not in her powers and that he should meet Kalambekar.

4. In October 2022, Kalambekar offered to give Flat No.1302 on the 13th floor as the C.C. upto 13th floor was available. The informant paid Rs.25 lakhs to Kalambekar in his H.D.F.C. bank's account in the name M/s. Learc InfraProjects LLP. Kalambekar gave him allotment letter in respect of flat No.1302. The informant took loan of Rs.1 crore from a bank. But before disbursement of the loan, registration of the flat was necessary, therefore, he again approached Kalambekar. On his demand, the informant paid Rs.5 lakhs more to Kalambekar in the same bank account. After that, registration for that flat was not made. The informant met the present applicant, as well, but she also avoided to take steps for registration of that flat in the name of the

informant. The informant came to know that the applicant had sold the same flat to one Nilesh Malekar on 15.02.2023. The informant again met Kalambekar; who gave him four cheques, but on deposit, three of the cheques were dishonoured. In short, the informant lost Rs.40 lakhs in this offence. On this basis the F.I.R. was lodged.

5. Learned counsel for the applicant submitted that the transaction was between the informant and Kalambekar. The applicant had clearly told the informant that only Kalambekar was authorised to sell the flats, therefore, there was no privity of contract between the applicant and the first informant. He invited my attention to page-74 of this application which is a copy of an E-mail wherein Kalambekar had accepted that he had taken Rs.40 lakhs from the informant and that he intended to repay the entire amount. Shri. Kocharekar, therefore, submitted that the applicant has not played any part in this offence. Learned counsel submitted that, initially, said Sarathi Construction was started by the applicant's husband. She was a teacher but only after her husband passed away, she started looking after that business.

6. Learned APP opposed these submissions and produced the copy of an MoU between Kalambekar and the applicant. There is a list of flats which were retained for sale by the present applicant and in that list Flat No.1302 was not mentioned. Learned APP, therefore, submitted that the applicant could not have sold that flat to the detriment of the present informant. Learned counsel for the applicant submitted that he will take instructions specifically in that behalf and will also try to take steps, so that, some solution can be reached. Considering this statement, as of today, the applicant who is a lady can be protected by ad-interim order till the next date.

7. Hence, the following order.

ORDER

- i) In the event of her arrest in connection with C.R.No. 167 of 2024 registered at Goregaon Police Station, Mumbai, till the next date, the Applicant is directed to be released on bail on her executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- ii) This order shall operate till 05/07/2024.
- iii) The Applicant shall attend the concerned Police Station on 20/05/2024 and 21/05/2024 between 1.00p.m. to 5.00p.m. and thereafter as and when called and shall cooperate with the investigation.
- iv) Stand over to 05/07/2024.

(SARANG V. KOTWAL, J.)