

NSC.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 352 OF 2015**

Shoeb Ahmed Iraqi	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Mubin H. Solkar i/b Ms. Tahera Abdul Rashid Qureshi for the Applicant

Ms. P. P. Shinde, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

DATE : 31st MARCH, 2015

P.C. :

1. Heard learned counsel for the applicant and learned APP for the Respondent – State.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R.No.83 of 2015, registered with the Nagpada Police Station, for the alleged offences punishable under Sections 465, 467, 468, 471, 420 r/w 34 of the Indian Penal Code.

3. Mr.Solkar, learned counsel for the applicant submits that the dispute is with regard to a shop, situated at the address more particularly mentioned in the application. He states that a suit was filed in 1982 by the grand father of the applicant, as against the grand father of the complainant who was the landlord,

for a declaration that they were the tenants of the property. He further submitted that the said suit was dismissed and thereafter in 1999 the applicant's appeal came to be allowed and they were declared to be deemed tenants and that permanent injunction was granted in their favour.

4. He further submits that the allegation of the complainant, is that the applicant's father had applied for Gumasta licence and for obtaining the same, a forged rent receipt was submitted to the Corporation. He further submits that a perusal of the complaint shows that there are no allegations of forgery and fabrication of the rent receipts by the applicant. The only allegation is that the application was submitted in the name of the applicant by the applicant's father. He further submits that no role has been alleged as against the applicant and that the applicant's father was in custody for the alleged fabrication of the rent receipt.

5. Learned APP opposed the bail application. She submits that the applicant has not attended the concerned police station. She further submits that an application was made to the Municipal Commissioner by the present applicant for obtaining Gumasta licence, on his name.

6. Learned Counsel for the Applicant refutes the learned APP's submission and submits that this application has not been preferred by the present applicant,

but by one Mohammed Shoieb.

7. Perused the papers of investigation. It appears from the complaint that the allegations with regard to the forgery of rent receipt is qua the father of the applicant and not the Applicant. The applicant's father was arrested and later released on regular bail. It also appears that the application for obtaining Gumasta licence, shows the name of one Mohammed Shoieb, as the applicant, while the name of the present applicant is Shoeb Ahmed Iraqi.

8. Considering the fact that there is a dispute with regard to the property between the parties and considering the nature of allegations as against the applicant, the custody of the applicant is not required. The applicant accordingly is entitled to be enlarged on pre-arrest bail on the following terms and conditions :-

ORDER

- i) In the event of arrest, the Applicant be enlarged on bail furnishing P.R.Bond in the sum of Rs.15,000/-, with one or two sureties in the like amount ;
- ii) The Applicant shall report to the Nagpada Police Station, Mumbai, on every Saturday, between 11.00 a.m. to 12.00 noon, till the filing of the charge-sheet and thereafter as and

when called for by the Investigating Officer ;

- iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case;
- iv) The Applicant shall co-operate in the conduct of the trial.

9. The Application is allowed and disposed of in above terms.

10. It is made clear, that the observations made herein, are prima-facie, for the purpose of deciding this application.

11. Parties to act upon the authenticated copy of this order.

REVATI MOHITE DERE, J.