

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO. 1027 OF 2015**

|                               |                |
|-------------------------------|----------------|
| 1. Anant Kisan Katkari @Naik  |                |
| 2. Rajvardhan Tulshiram Patil | ... Applicants |
| Vs.                           |                |
| The State of Maharashtra      | ... Respondent |

Mr. Akhilesh Dubey a/w. Mr. A.A. Khan i/b. Law Counsellors, Advocate for the applicants.

Mr. Arfan Sait, APP for the respondent/State.

I.O. Mr. T.B. Mane, P.I., Kamothe Police Station, Navi Mumbai present.

CORAM: **MRS.MRIDULA BHATKAR, J.**  
DATE : **JULY 28, 2015**

**P.C.:**

This Application is moved for pre-arrest bail, as the applicants/accused are apprehending arrest under sections 2(7), 52(1)(c), 53(1)(7), 54(1)(2), 55(1) of Maharashtra Regional and Town Planning Act, 1966 in C.R. No. II-31 of 2015 registered with Kamothe Police Station, Navi Mumbai.

2. It is the case of prosecution that Survey no. 373/1, Kamothe, Taluka Panvel, the applicants/accused have constructed 4 houses on the land unauthorizedly. As per the case of the prosecution, the said land is notified by CIDCO for new township and nothing can be constructed on the said piece of land. It is the case of the prosecution that the construction which was erected by the applicants/accused was demolished on 13<sup>th</sup> April. 2015 and 12<sup>th</sup> May, 2015, however, they noticed

that again some portion was being constructed and therefore, another notice was given by CIDCO to the applicants/accused. The said notice is challenged before the Division Bench of this Court in Writ Petition No. 4275 of 2015 and the Division Bench has stayed the demolition of the said unauthorized construction.

3. The learned counsel for the applicants/accused has submitted that whether this land is notified or not is not answered by CIDCO though he made query under Right to Information Act to CIDCO. He relied on letter dated 9<sup>th</sup> May, 2013 sent by CIDCO. He further submitted that the applicants/accused do not have antecedents and they are not likely to abscond but cooperate the police.

4. Learned APP submitted that the applicants/accused are constructing unauthorizedly on the plot of CIDCO when the CIDCO has given notices to applicants/accused of demolition. Hence, the offence is registered under MRTP Act.

5. Perused the FIR and the order passed by Division Bench of this Court. *Prima facie* it appears that there is an offence committed by the applicants/accused, however, there are no antecedents and it is an offence under MRTP Act, hence, custodial interrogation of the applicants/accused is not required. In view of this, I am inclined to grant

pre-arrest bail to the applicants/accused on the following terms and conditions:

**ORDER**

- i) Application is allowed.
  - ii) In the event of arrest, the applicants/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- each, with one or two sureties in the like amount;
  - iii) The applicants shall not tamper with the evidence;
  - iv) The applicants shall not indulge into any kind of offence of unauthorized construction while on bail;
  - v) The applicants shall cooperate with the Investigating Officer and attend the concerned police station on 10<sup>th</sup> August, 2015 and 11<sup>th</sup> August, 2015 between 10 a.m. to 12 noon till the filing of the charge sheet.
6. The Application stands disposed of on above terms.

**(MRS.MRIDULA BHATKAR, J.)**