

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1632 OF 2014**

Satish Ramswaroop Panchariya	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. M. S. Mohite i/b Mr. Rohit Sharma for the Applicant

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

Mr. Mangesh Patil for the Complainant

CORAM : REVATI MOHITE DERE, J.

THURSDAY, 26TH MARCH, 2015

P.C. :

1. Heard learned Counsel for the applicant, the learned A.P.P. and the learned Counsel for the complainant.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 178 of 2014 registered with the Oshiwara Police Station, Mumbai, for the alleged offences punishable under Sections 354B, 323, 504, 506(ii), 341 r/w 34 of the Indian Penal Code, 1870.

3. The incident in question has taken place on 20th February, 2014 at about 1:30 p.m. The FIR has been lodged on 9th May, 2014. According to the applicant, his younger brother, Mr. Arun Panchariya had purchased flats, bearing Flat Nos. 181 and 182 on the 18th floor of the Building No. 1-B, Windemere, New Link Road, Oshiwara, Andheri (West), from one Ms. Ami N. Patel and M/s. Top Telemedia Pvt. Ltd. The learned counsel for the applicant contended that for the purchase of the said flats, the applicant's younger brother had paid the entire consideration, as agreed upon by Ms. Ami N. Patel and M/s. Top Telemedia Pvt. Ltd., pursuant to which, possession was handed over to the applicant's younger brother Arun Panchariya along with the keys of the flats. Learned Counsel for the applicant submitted that on 15th January, 2014, one Ms. Heena Lalwani and 2 others, at the instance of Ms. Ami Patel and Mr. Deep Trivedi, forcibly tried to enter the said flats and attempted to take illegal possession of the said flats. Pursuant to the same, the applicant is stated to have immediately lodged a complaint with the Oshiwara Police Station, as against Ms. Ami N. Patel, Mr. Deep Trivedi and Ms. Heena Lalwani, alleging criminal intimidation, criminal trespass etc. It also appears that on 20th February,

2014, this Hon'ble Court (Coram : S. J. Kathawalla, J.) had passed an order appointing a Court Commissioner with respect to the said flats and on 21st February, 2014, a Court Receiver was appointed in respect of the said flats to ascertain who was in possession of the said flats.

4. The incident is alleged to have taken place on 20th February, 2014 and the complaint has been lodged by Ami N. Patel, as against the present applicant, Imran Qureshi and Ramakant Sharma. Pursuant to the High Court order, the CCTV footage also came to be seized and produced before the learned Judge. The learned Counsel for the applicant submitted that admittedly, the applicant was not present at the time of the alleged offence. He submitted that the CCTV footage which has been seized by the Investigating Officer, also supports the same.

5. Learned A.P.P does not dispute the fact, that the applicant was not present at the time of the alleged incident. She states that the applicant came subsequently at the spot after the arrival of the police. According to the learned counsel for the complainant, the applicant instigated the others to commit the alleged offence. It is evident that apart from Section 354B, of

the Indian Penal Code which is non-bailable, rest of the Sections that have been applied are bailable Sections.

6. It also appears that there is a civil suit filed by the applicant's brother, in which the complainant is a defendant and that the same is pending. Considering the peculiar facts of the case, more particularly the fact that the applicant was not present at the time of the alleged incident, the applicant is entitled to be granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;
- (ii) The applicant shall not tamper or attempt to contact the complainant or any witness concerned with the said case;
- (iii) The applicant shall co-operate with the Investigating Agency.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.