

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

ANTICIPATORY BAIL APPLICATION NO.1934 OF 2015

Mr. Saleem Anver S/o Naseem Anver ...Applicant

Versus

Union Territory of Dadra & Nagar
Haveli & Anr. ...Respondents

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Mr. Prakash Naik i/b. Mr. Ganesh Bhujbal for the Applicant.

Mr. P.H. Kantharia, PP for the Respondent No.1

Mr. S.S. Pednekar, APP for the Respondent No.2- State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 22nd DECEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant in apprehension of his arrest in Crime No. 233 of 2015 registered with Silvassa Police Station, District- Dadra Nagar Haveli, for the offences punishable under section 452, 427, 506, 120B r/w. 34 of the Indian Penal Code, 1860.

2. The allegations levelled against the Applicant are that on 4.12.2015 at about 12.20 p.m. the Applicant alongwith others criminally trespassed in the house of the complainant and damaged their door and also abused them in filthy words. Pursuant to the

complaint lodged by the one Samimbanu, the aforesaid crime came to be registered.

3. Mr. Prakash Naik, the learned senior counsel has submitted that the FIR does not prima facie reveal the essential ingredients of section 452 of the IPC. He has submitted that nature of the allegations levelled against the Applicant do not justify custodial interrogation.

4. Ms Kantharia, The learned Public Prosecutor for the Respondent No.1 submitted that the offence under section 452 of the IPC is punishable for a term, which may extend to seven years. She has submitted that the Applicant has criminal antecedent and this is not a fit case for grant of bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant, the learned Public Prosecutor for the Respondent No.1 and the learned APP for the Respondent No.2-State. The FIR prima facie states that on 4.12.2015 at 12.20 p.m while the complainant, her husband and their daughter were at home, the Applicant alongwith others broke open the door of their flat and told them that the flat belongs to them and abused them in filthy words. In my considered view, the allegations in the FIR do

not prima facie reveal the essential ingredients of offence under section 452 of the IPC, which contemplates committing house trespass after having made preparation for causing hurt to any person, or for assaulting any persons, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault or of wrongful restraint. In the instant case the FIR does not disclose such ingredients. Hence, prima facie no case is made out under section 452 of the IPC. The nature of the allegations levelled against the Applicant do not justify custodial interrogation. This is a fit case for grant of bail.

6. Under the circumstances, the application for anticipatory bail is allowed on the following terms and conditions:-

- (I) In the event of arrest of the Applicant in Crime No. 233 of 2015 registered with Silvassa Police Station, District- Dadra Nagar Haveli, the Applicant shall be released on bail on furnishing the bail bonds of Rs.20,000/- (Rupees Twenty Thousand only) with one surety to the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Dadra Nagar Haveli at Silvassa.

(II) The Applicant shall report to the Investigating Officer for four days from 10.00 a.m. to 2.00 p.m. from the date of receipt of this order and further as and when required by the Investigating Officer for the purpose of the interrogation.

(III) The Applicant shall not interfere with the complainant and the witnesses in any manner and/or shall not tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)