

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.419 OF 2016

Mr.Talib Mohd. Sidique Khatri ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.E.B. Dixit i/b P.R. Yadav for the Applicant
Ms.M.H. Mhatre, APP, for Respondent – State
Mr.Popat Ahad, P.I., present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 9, 2016**

P.C.:

1. This application is moved for pre-arrest bail as the applicant is facing charges under section 465, 467, 468, 471, 420 and section 120B r/w 34 of the Indian Penal Code at C.R. No.139 of 2014 registered with the J.J. Marg police station, Mumbai. It is the case of the prosecution that a building No.359-361, M.A. Road @ Duncan Road, Bhendi Bazar, Mumbai-400003 was a ground plus first floor structure. The owner of the building gave application for the repair of the said building and submitted the plans to MHADA and the plans were approved from MHADA for ground plus four floors when the Corporation has never given permission for the upper 2 to 4 floors. As the plan sanctioned by the Corporation was only for ground plus 1 floor, the building was demolished. The construction was carried out. The Junior Engineer of the Corporation one Narendra M. Kotkar, who

is the complainant, and other officers had visited the building. The photograph of the building was taken. It was ground plus first floor and found that though the sanctioned plan of the Corporation was not for 2 to 4 floors, the construction was going on of the said upper floors. Hence, the notice was given by the Corporation. Thereafter, the owner of the building and the contractor filed civil suit No.1443 of 2014. Thereafter, the officers from the Municipal Corporation made enquiry into the matter, examined the documents submitted by the owner and the Developer and found that the forged documents were submitted before the MHADA and the Corporation and the plans approved by MHADA are also illegal and vague documents and, therefore, the offence was registered against the owner of the building, the Developer and the Architect and other persons, who have conspired for the construction of the 2 to 4 floors.

2. The learned Counsel for the applicant-accused submitted that the applicant-accused is the proprietor of one AT Corporation company to whom the contract is given by MHADA so also he is a relative of the main accused Abdul Yusuf Burhan, who is also one of the Directors of the said M/s.AT Corporation, who is facing charges that he is the main accused in preparing the fake, false and fabricated documents regarding plan, rent receipts, ration cards of the so called tenants. He submitted that the applicant-accused has not played any role in the preparation of false or bogus documents and is not concerned with the conspiracy.

3. Learned Prosecutor, in reply, submitted that it is a fact that this applicant is a relative of the main accused. He is one of the Directors of the AT Corporation company. She submits that a similar offence is registered against this applicant-accused at C.R. No.173 of 2014 with Colaba police station. On instructions from the Investigating Officer, who is present in the Court, she submits that this accused has not played any role in the preparation of the forged/fake documents so also obtaining the fake, fabricated plans from MHADA.

4. In view of the submissions of the learned Prosecutor and considering the facts, which are placed before the Court, it appears prima facie that it is a case to grant pre-arrest bail to the applicant-accused. Accordingly, the Anticipatory Bail Application is allowed on the following terms and conditions:

- i) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount;
- ii) The applicant-accused shall not tamper with the evidence;
- iii) The applicant-accused shall not indulge into any criminal activity and especially of the offences that he is facing in the present C.R.

- iv) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.
- v) The applicant-accused shall attend the concerned police station on every Friday from 10 am to 12 noon, till filing of chargesheet.
- vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

(MRIDULA BHATKAR, J.)