

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO. 548 OF 2016

Dilip Balramdas Udasi

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

\* \* \* \* \*

Mr. Sushrut Jadhwar, Advocate for the applicant.

Ms. Sharmila Kaushik, APP for respondent, State.

**CORAM :- N.W. SAMBRE, J**

**DATED :- 29TH NOVEMBER, 2016.**

**P.C. :-**

1). On December 17, 1992 the Charity Commissioner, Mumbai in exercise of powers conferred under Section 36 of the Bombay Public Trusts Act granted permission in favour of the complainant to develop the property with one Sushrisha Land Developers having details as CTS No. 103. It appears that, instead of taking the said issue of development to its logical end, the said Sushrisha Land Developers entered into further agreement with RND Builders of which the applicant is one of the Director/Promoter. It is claimed in the FIR that, the present applicant, the Promoter/Director has practised fraud on its trust/trustees by moving an application before the Charity Commissioner while praying for extension of completing the formality of lease in favour of the trust by putting

forged signature of trustees on behalf of Trust though there was no such authorisation from Trust.

2). In the above referred background, Crime No.3 of 2015 punishable under Sections 406, 467, 469, 471, 120(B), 468 Indian Penal Code came to be registered.

3). While trying to make out a case for pre-arrest bail, the learned Counsel for the applicant, submits that there is a civil dispute between the parties and it is only with an intention to twist the arm of the applicant who has entered into an arrangement of development as regards the trust property with Sushrusha Developers, the offence came to be registered.

4). He would then invite my attention to the MOU entered into between the trust and its trustees with one Akash Danishtha Constructions Pvt. Ltd, who I am told is already trying to settle the dispute between the parties, the trust, the trustees, the present applicant and Sushrusha Developers in the civil proceedings which are pending.

5). It is claimed that, in view of the above position, since the issue has a colour of civil litigation, custodial interrogation is not warranted.

6). The learned APP submits that, the present applicant acted contrary to the order passed under Section 36 by the Charity Commissioner under the Bombay Public Trust Act as there was no permission in favour of the applicant to develop the property. It is

claimed that, custodial interrogation is necessary so as to find out the real culprit who has signed an application moved before the Charity Commissioner.

7). Having considered the rival submissions and the material available on record, it is to be noted that the entire crime is based on the documentary evidence.

8). The complainant trustees have already entered into an MOU as is placed on record on 4<sup>th</sup> April, 2012. The present FIR came to be lodged subsequent to the said MOU.

9). Apart from above, the issue which could have been settled in civil litigation is sought to be brought before the Investigating agency.

10). In the above referred background, custodial interrogation is not warranted.

11). Hence, the bail application is allowed. In the event of arrest, be released on P.R. Bond of Rs.1,00,000/- (Rs. One Lakhs only) with one or two sureties in the like amount.

12). The applicant to attend police station on 6<sup>th</sup> and 9<sup>th</sup> December, 2016 and thereafter as and when called.

13). The applicant not to tamper the evidence and/or influence the witnesses in any manner whatsoever.

**(N.W. SAMBRE, J)**