

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.902 OF 2015

Mr.Sayed Ejaz Ibrahim ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Ayaz Khan for the Applicant
Ms.P.P. Shinde, APP, for Respondent – State
Mr.U.Kadam, PI, J.J. Marg, police station – present

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

DATE: **MARCH 14, 2016**

P.C.:

1. This application is moved for pre-arrest bail as the applicant-accused is facing charges under sections 465, 467, 468, 471, 420 r/w 34 and under section 120B of the Indian Penal Code in C.R. No.139 of 2014 registered with the J.J. Marg police station, Mumbai. The applicant-accused is a landlord of a building which stands on C.S. Nos.4101 and 4100, street No.359 / 361, Maulana Azad Road, Mumbai-400004, which is called as a Sayed Mansion. The said building consists of ground plus first floor. The application was made for repairs of the said building which was approved by the Corporation. However, the Corporation gave permission for tenantable repairs. However, the officer of the Corporation, who is a complainant in the present case, N.M. Kotkar, has found that at the time of inspection, the said building was only ground plus one floor. The

photographs were taken of the said building by the official of the Corporation. However, it is found that the accused and the co-accused have submitted a bogus list of the tenants disclosing their tenaments on the 2nd to 4th floor and the permission was sought from the Corporation. The building was demolished. However, it was found that there were no 2nd to 4th floors but under the pretext of repairs, the entire building consisting of 3 storeys was to be constructed. Hence, the FIR was given and the offence at C.R. No.139 of 2014 was registered.

2. Mr.Khan, appearing for the applicant-accused, submitted that the applicant-accused is innocent. He has not done any wrong. He is not involved in the commission of offences, but he is only a landlord, who sold the building on 20.8.2013 by agreement of sale to the wife of accused No.4, namely, one Sajrunnisa Shafiq Khan. He submitted that the applicant-accused did not submit any document or any plan to the Corporation and he is not involved in the offence. He further submitted that the applicant is granted interim pre-arrest bail and he has been attending the police station and also faced interrogation by the police and cooperated. He submitted that he himself wrote a complaint to the police and gave complaint to the Senior Inspector of Police on 8.4.2015 and so also, he informed the Municipal Corporation regarding the demolition of the building which has been illegally constructed on 17.2.2016 and thus, he is innocent.

3. Learned Prosecutor has submitted that the applicant-accused has played a peculiar role. She submitted that he alongwith other so called tenants have filed writ petition and in connivance, obtained orders of construction of building by misleading the Court. She relied on the order of this Court passed on 4.8.2015 to show that the applicant-accused tried to mislead about his identity before the Court by showing a different name as Sayed Aziz though his name is Sayed Ejaz.

4. Perused the FIR, the agreement of sale as also other documents relied on by the prosecution and the defence. Prima facie, it appears that the building is ground plus 1st floor and 2nd to 4th floors were never in existence. There was no permission to construct those floors. It appears that the applicant alongwith the co-accused has prepared bogus list of tenants and submitted it. The contention of the learned Counsel for the applicant that whether the submission of the bogus list can be the only criterion for MHADA or the Corporation to grant permission of repairs, is immaterial at this stage, because he, being a landlord, was aware of how many floors were there in the building. On perusal of the complaint, which he gave to the Senior Inspector of Police on 8.4.2015, there is no mention that the building consisted of ground plus 1 floor. It appears that he has skilfully suppressed the said fact from the police. His custody is required for investigation on number of grounds especially in respect of submission

of the forged and fake documents to the Corporation, obtaining permission from the Corporation, preparation of list of bogus tenants, etc.

5. In these circumstances, the Anticipatory Bail Application is rejected.

(MRIDULA BHATKAR, J.)