

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.1525 OF 2015**

Shri Shaikh Abdul Gani Yasin ... Applicant

Vs.

The State of Maharashtra & anr. ... Respondents

Mr.Y.M. Choudhary a/w Mr.Ajay Basutkar for the Applicant

Ms.Rutuja Ambekar, APP, for Respondent – State

Mr.Sandesh Patil for Intervener

Mr.S.B. Tawde, PI, Dahisar Police Station – present

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

DATE: **APRIL 18, 2016**

**P.C.:**

1. The applicant-accused is prosecuted for the offences punishable under sections 406, 464, 465, 468, 471, 475 r/w 34 of the Indian Penal Code. It is the case of the prosecution that the complainant Gulam Mohammed Osmani had filed a private complaint before the learned Magistrate wherein the learned Magistrate gave directions under section 156(3) of the Criminal Procedure Code pursuant to which the offence was registered on 20.9.2014 at MECR No.2 of 2014 with Dahisar police station, Mumbai. It is the case of the prosecution that the father of the applicant-accused was the owner of the land and the structures

appurtenant and he had entered into an agreement of lease of 97 years a property on 2.11.1966 with one Dadi family and they were running their company. The Dadi family could not pay the lease rent and, therefore, his father issued legal notice. However, the company of the Dadi family was closed down. In the year 1967, the father died and in 1994, the name of the complainant was entered in the revenue records. In 2006, the Dadi family filed affidavit that due to default in payment of lease rent, the lease agreement was cancelled. It is the case of the prosecution that in the year 2014, one Aslam Dadi filed affidavit that in the year 1978, the company was closed and therefore, the agreement of lease was cancelled and the family is staying in USA. One of the partners Ahmed A. Rehman is also dead and he had also given in writing that as the company was closed down, the partners would not claim any right on the basis of that agreement of lease. However, it is the case of the complainant that one of the tenants, i.e., the applicant, claimed that under the forged power of attorney dated 3.10.1998, he came in possession of the said lease premises and he is having leasehold rights and, therefore, he is looking after the entire building and he is recovering the rent illegally from other tenants. Hence, the complaint was filed.

2. The learned Counsel for the applicant has submitted that the members of the Dadi family, who are signatories of the alleged forged

power of attorney, have given statements and also filed affidavits that they in fact had executed the power of attorney in favour of Shri Shaikh Abdul Gani Yasin and gave him power to act accordingly.

3. The learned Prosecutor as also the learned Counsel for the complainant have opposed the application. The learned Prosecutor submitted that the report of the handwriting expert is received by the Investigating Officer and it shows that the signature on the forged power of attorney and the signature of the notary do not tally. It is submitted by the learned Prosecutor and the learned Counsel for the complainant relied on the statement of notary one Mr.Lambat, who has stated that he never put his seal or stamp or signed on the said power of attorney and this power of attorney is, therefore, forged.

4. Heard both the parties. Perused the relevant documents and the FIR as also the relevant statements of the witnesses. It appears that the members of the Dadi family have executed the power of attorney in favour of the applicant-accused in respect of the land and building appurtenant to the land which is the subject matter of the agreement of lease. In their statement before police, they have maintained the stand. The report of the handwriting expert, shows that the signature of the notary is different. The alleged forged power of attorney is with the police.

5. Considering these facts, I am inclined to confirm the interim pre-arrest bail. Accordingly, the interim pre-arrest bail granted on 23.10.2015 is hereby confirmed. The applicant-accused shall attend the concerned police station on three Thursdays hereafter i.e., on 21<sup>st</sup> April, 2016, 28<sup>th</sup> April, 2016 and 5<sup>th</sup> May,2016 between 6pm to 8pm and cooperate with the Investigating Officer.

6. Anticipatory Bail Application is disposed of accordingly.

**(MRIDULA BHATKAR, J.)**