

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

ANTICIPATORY BAIL APPLICATION NO. 2012 OF 2016

Mahesh Bhayani & Ors.

.. Applicants

Versus

The State of Maharashtra

.. Respondent

Mr. M.S. Mohite a/w. Mr. C.K. Pendse i/b. Mr. S.R. Pendse Advocates for the Applicants.

Mr. A.S. Patil, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 22nd NOVEMBER, 2016.

P.C. :

1 The applicants are seeking pre-arrest bail in Crime No.239 of 2015 for the offences punishable under sections 420, 465, 468, 471, r/w. 34 of the I.P.C.

2 The alleged offence took place in between 2010 to 2014 for which F.I.R. came to be registered on 22.06.2015.

3 The complainant claims to the partners in transport firm was required to be evicted after the part of the building in question is collapsed. It is the case of the complainant through prosecution that the present applicants with an intention to have unjust enrichment forged tenant receipts thereby included 3 tenants who have never occupied the premises in question that is Sheriff Devji (Chakla) Street, Mumbai- 400 003, which was owned by original owner Hemchand and Sons.

4 While making out a case for bail the learned counsel for the applicants make a categorical statement that even though the list of the

tenants as is reflected at page 62 of the paper book speaks of tenant Sr. No.5 Regal Hosiery, Sr. No.6 Mustufa Abrahan and Sr. No.14 Jay Mahalaxmi Traders, the names of these tenants were never included while getting sanction and approval of competent authority. These three tenants were never and are beneficiaries under the redevelopment scheme and as such neither the present applicant nor those three tenants are any way benefited out of the scheme of redevelopment.

5 He would then submit that there is a dispute in between the present applicant and complainant as the complainant is already before this Court in an original jurisdiction wherein the present applicants have suffered an order of injunction as regards alienation to the extent of area claimed by the complainant.

6 Having bestowed my thoughts to the submissions made and a categorical statement made by the applicants that the three tenants referred supra at Sr. Nos.5, 6 and 14 are not beneficiaries in the final redevelopment list approved by the competent authority and the applicant will not be in any way benefited out of the redevelopment, the custodial interrogation in my opinion is uncalled for. In view thereof, the application is allowed.

7 In the background of above, in the event of arrest, the applicants be released on bail on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount. The applicant shall attend police station from next week on every Monday and Thursday between 10.00 a.m. to 12.00 noon and thereafter as and when called for. The applicant shall not tamper with the evidence or influence the witnesses.

(N.W. SAMBRE, J.)