

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2153 OF 2016

Mr. Jayendra Jagannath Patil ... Applicant

Vs.

The State of Maharashtra ... Respondent

.....
Mr. Ditendra Mishra , Advocate for the Applicant.
Smt. N.S.Jain , APP for the State.

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CORAM : N. W. SAMBRE, J.

DATE : 19th December, 2016

P.C.

1 The Applicant is seeking pre-arrest bail in Crime No.354 of 2016 for the offence punishable under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of IPC and Sections 53 and 54 of the Maharashtra Regional and Town Planning Act, 1966.

2 The learned counsel for the Applicant invites my attention to the Power of Attorney executed in favour of one Waman Enterprises so as to submit that the Applicant, Co-owner of property being Survey No.146, Hissa No.4 4, Virar is beneficiary only to the extent of lawful sanction granted by the Development

Authority. He would submit that the developer to whom the land was entrusted for development has tampered with the sanction permission and against the sanction of 40+14 i.e. 54 flats, the developer has carried out development of 113 flats by tampering the said certificate. According to him, the Applicant is neither beneficiary nor a party to such tampering.

3 This Court initially was inclined to grant notice. However, the learned counsel for the applicant insisted that the matter should be heard and ad-interim relief be granted.

4 The learned Additional Sessions Judge on 18.10.2016 i.e. about 2 months back rejected pre-arrest bail application on merits.

5 In this background, the Court has constrained to take up this matter for final disposal at this stage.

6 What could be gathered from the papers on record is that the planning authority i.e. Vasai-Virar Municipal Corporation granted permission for development of total 54 flats against which after tampering commencement certificate, the developer has carried out development of 113 flats ie. doubled the sanction plan by tampering permission.

7 The entire development activity of 113 flats based on the tampered permission is carried out under the nose of the Applicant as the Applicant cannot be a mute spectator to such an illegal activity, it has to be inferred and presumed that Applicant being owner, is a direct beneficiary of such an illegal activity i.e. illegal development carried out on the land of the Applicant.

8 There is sufficient material to connect the applicant to the crime in question. No case is made out. Application fails.

(N. W. SAMBRE, J.)