

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 275 OF 2017**

Rajendra Rajaram Sonawane	...Applicant
Versus	
The State of Maharashtra	...Respondent

**WITH
CRIMINAL APPLICATION NO. 251 OF 2017
IN
ANTICIPATORY BAIL APPLICATION NO. 275 OF 2017**

Shoaib Ahmed Mohammed Amin	...Intervener
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IN THE MATTER BETWEEN:

Rajendra Rajaram Sonawane	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. Sanjeev Sawant a/w Mr. Sandeep Barve i/b B. K. Barve & Co. for the Applicant

Mr. S. S. Pednekar, A.P.P for the Respondent-State

Mr. Anilkumar Patil a/w Mr. Pankaj Pandey for the Intervener in APPP/251/17

PSI Mr. Karnavar Somnath Tukaram from Killa Police Station, Malegaon, Nashik (Rural) is present.

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JULY, 2017

P.C.

1. Heard learned Counsel for the parties.

2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. 6 of 2017 registered with the Killa Police Station, Pune, Malegaon, Nashik, for the alleged offences punishable under Sections 8(1) and 9 of the Maharashtra Public Record Act, 2005 and Section 3 of the Prevention of Damages to Public Property Act, 1984.

3. Learned Counsel for the applicant submits that the applicant was appointed as a Building Supervisor for a temporary period i.e. from 21st September, 2012 till 2nd June, 2015, and that on 2nd June, 2015, his services came to be terminated. He submits that the applicant has been falsely implicated in the said case and that the applicant had no concern with the alleged offences. He submitted that in the letter dated 4th August, 2016, the applicant, had disclosed to the Commissioner, Malegaon Municipal Corporation, that on 20th March, 2014, on the instructions of his senior officers i.e. Shakil Sayyed and Deepak Kulkarni, he had brought the file from the Establishment Department and had handed it over to Shakil Sayyed and Deepak Kulkarni, however, the said file was not returned by them, to the applicant. He has stated that earlier when asked about the

missing file, he had on the instructions of Deepak Kulkarni and Shakil Sayyed disclosed, that he had taken the said file for xeroxing from the Establishment Department and after xeroxing it, he himself had returned the file to Mr. Arun Surte of the Establishment Department. He has further stated that after he carefully recalled the events again, he remembered, that as per the orders of the senior officers, he had bought the files from the Establishment Office and had handed over the same to Shakil Sayyed and Deepak Kulkarni. He has stated that Shakil Sayyed and Deepak Kulkarni, were in possession of the original file and the said file was not given to him, for returning it to the Establishment Department. According to the learned Counsel, the original documents are with Mr. Shakil Sayyed and Deepak Kulkarni. Learned Counsel for the applicant further submitted that the affidavit filed by the learned A.P.P (in Criminal Anticipatory Bail Application Nos. 265/2017, 255/2017 and 275/2017), shows that when the meeting took place in July 2016, the file was with Mr. Shakil Sayyed and Mr. Deepak Kulkarni.

4. Learned A.P.P opposed the application, He submitted that according to Mr. Arun Surte, the Establishment Officer, Malegaon

Corporation, the applicant was given the file for xeroxing on 20th March, 2014. He relied on the statement of Mr. Arun Surte, wherein, he has stated that the present applicant was given the original file for xeroxing, however, the same was not returned back, by him, to the Establishment Office. He also relied on the Inward-Outward Register in support of the same. He submitted that the statement of the Municipal Commissioner, Malegaon, shows that Shakil Sayyed and Deepak Kulkarni had xerox copies of the file and that the file contained only one original possession receipt. He submitted that the complicity of the applicant is clearly evident in the said crime and that his custody is necessary to unearth who else is involved in the commission of the said offence and whether any monetary benefit was derived as a result of the same.

5. Perused the papers. It is the prosecution case, that the then Municipal Council, Malegaon, had entered into an agreement dated 27th March, 1985 with Eknath M. Tisge (owner of the land) with respect to Survey Nos. 60/5 and 60/6. It appears, that with respect to the said land, litigation was pending between the parties in this Court i.e. First Appeal No. 2689 of 1983. The parties filed a compromise pursis in the said appeal,

pursuant to which, the Municipal Council, Malegaon paid Eknath Tisge, certain amounts in two installments on 30th April, 1985 and 12th March, 1986. The parties thereafter prepared a Sale Deed bearing registration No. 2033 of 1986 and presented the same for registration before the Sub-Registrar, Malegaon on 1st April, 1986. The said document could not be registered and was sent back to the Malegaon Municipal Council on 19th April, 1991. In view of the same, land bearing Survey Nos. 60/5 and 60/6 could not be mutated, in the name of the Malegaon Municipal Council. On 17th December, 2001, the status of Malegaon Municipal Council was elevated to Municipal Corporation. The Malegaon Municipal Corporation, however, did not take effective steps to reclaim the said land, though some correspondence was made to the Revenue Officials. In the meanwhile, the land was transferred to some third parties, by the owners, thus causing heavy losses to the Corporation. It appears from the statement of the Municipal Commissioner, Malegaon, that in the meeting which was held in July, 2016, Shakil Sayyed and Deepak Kulkarni had xerox copies of the documents and original possession receipt in the said file, with respect to the plots i.e land bearing CTS No. 60/5 and 60/6. It appears from the Inward-Outward Register and the statement of Mr. Arun Surte that the

original file was given to the applicant for xeroxing, however the same was not returned back by the applicant to the Establishment Office. The applicant's letter dated 4th August, 2016 addressed to the Municipal Commissioner, Malegaon, stating that the original file was given by him to Shakil Sayyed and Deepak Kulkarni and the same was not returned by them, cannot be relied upon. As of today, *prima facie*, the material on record shows that in 2014, the file was taken by the applicant and was not returned by him, thereafter. The custody of the applicant is required to trace the missing file and to find out who else is involved in the file going missing. The file pertains to a plot, which although in the possession of the Municipal Corporation, the original documents were needed to file a Civil Suit. *Prima facie*, it appears that the original file has gone missing, to benefit someone else. The file contained original document, necessary for the Municipal Corporation to establish its claim, in respect of the land and to reclaim the same. Learned A.P.P states that the purpose of the file going missing, is, to help the land mafia in the said area, the land being a valuable piece of land.

6. Considering the aforesaid, the custodial interrogation of the applicant is necessary to unearth the same. Accordingly, the application stands rejected.

7. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid application and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

8. In view of the above order, nothing survives for consideration in the intervention application being Criminal Application No. 251 of 2017. The same stands disposed of accordingly.

REVATI MOHITE DERE, J.