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

ANTICIPATORY BAIL APPLICATION NO.126 OF 2018

Sudhakar Gangadhar Shriyan

... Applicant

V/s.

The State of Maharashtra

... Respondent

**WITH
CRIMINAL APPLICATION No.97 of 2018
IN
ANTICIPATORY BAIL APPLICATION NO.126 OF 2018**

Ratnadeep K. Pawar

... Intervener

In the matter between

Sudhakar Gangadhar Shriyan

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.S.P. Kadam i/b. Mr. Bhanudas L. Jagtap for the Applicant.

Mr.S.D. Pandey i/b. Mr. J. S. Pandey for the Intervener.

Ms.A.A. Takalkar, APP for the Respondent/State.

PI Raju Kasbe, Dahisar Police Station present.

CORAM : A.S.GADKARI, J.

DATE : 2nd FEBRUARY 2018.

P.C.:

1] The applicant is apprehending arrest in CR No.679 of 2017

dated 27th December, 2017 registered with Dahisar Police Station, Mumbai under sections 395, 452, 448, 342, 427, 506 143 146 149 of the Indian Penal Code.

2] Heard the learned counsel for the applicant, the learned counsel for the Intervener and the learned APP for the State. Perused the record of the investigation.

3] The FIR is lodged by Mr.Ratnadeep K. Pawar. It is alleged that he has purchased a shop gala bearing no. RXC30-1/1 Ghartanpada No.02, S. N. Namdev Marg, Vaghdevi Nagar, CTS No.2771, Dahisar (East) Mumbai 400068 and was in possession of the same.

It is stated that on 27th December, 2017, he received a telephone call from his worker at about 7.00 a.m. informing him that, at about 3.00 a.m., the applicant alongwith Mr.Rajesh Mishra and 50 to 60 persons forcibly entered into the said premises. The accused persons caused damage to the fixtures and furniture lying therein and threw away machines etc. out side the said shop gala.

That the applicant and other accused persons also caused damage to the CCTV camera and other machinery. It is stated that the first informant therefore immediately rushed to the said spot at about 7.30 a.m. where he

noticed five unknown women and three unknown men at the spot. He also noticed that the computer machine and other articles were thrown out in broken condition. He also noticed that a sum of Rs.2 lakhs which was kept in a drawer of the table is missing. It is further stated that at that time the applicant and co-accused Rajesh Mishra abused him in filthy language and informed him that the said shop gala belongs to them. It is further stated that he noticed that in the interregnum period a wall is erected in the centre of the said shop gala. In the premise, the FIR was lodged.

4] The learned counsel for the applicant submitted that there is a dispute *interse* between the first informant and the applicant pertaining to the ownership of the said shop gala and ligation pertaining to it is *subjudice*. He further submitted that the FIR has been falsely lodged by the first informant by creating scene of the said offence. He submitted that the applicant has been falsely implicated in the said crime as the first informant is having previous animosity with the applicant. He, therefore prayed that the applicant may be granted pre-arrest bail.

5] The learned counsel for the first informant vehemently opposed the application and submitted that whatever has been observed by the first informant at the scene of offence recorded in the FIR. He submitted that

the first informant is lawful owner of the said shop premises and the applicant has taken forcible possession of the same by employing 50 to 60 persons in that behalf. He further submitted that valuable property of the first informant has been damaged by the applicant and the co-accused and therefore no leniency be shown to the first informant by granting pre-arrest bail and prayed that the present application may be rejected.

6] The learned APP for the State supported the arguments advanced by the learned counsel appearing for the first informant and prayed that application may be rejected.

7] It is to be noted here that the FIR mentions that, about 50-60 persons took forcible possession of the said shop gala at about 3.00 am and thereafter a wall is constructed in the centre of the said shop gala in the wee hours on 27th December, 2017. The learned APP on instructions from Investigating Officer submitted that the said shop gala is situated in a densely populated area. The record indicates that no person in the vicinity has noticed any commotion at 3.00 am on the said day by 50 to 60 persons and/or any activity of construction of wall in the said shop gala. *Prima facie* it appears that the version narrated by the first informant is an exaggerated version. It appears that the present crime is registered due to

the dispute between parties *interse* arising out of the ownership of the said shop gala.

8] In view of the above, the applicant can be protected by pre-arrest bail.

Hence, the following order:

::ORDER::

- (i) In the event of arrest in CR No.679 of 2017 dated 27th December, 2017 registered with Dahisar Police Station, Mumbai, the applicant shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) Applicant shall attend the Investigating Officer as and when called for between 10.00 a.m. to 2.00 p.m. and to join the process of investigation till the filing of chargesheet.
- (iii) Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.
- (iv) Application is allowed in the aforesaid terms.
- (v) In view of the order passed in ABA No.126 of 2018, the present Application No.97 of 2018 for intervention does not survive and is accordingly disposed of.

(A.S.GADKARI, J.)