

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

**ANTICIPATORY BAIL APPLICATION NO. 492 OF 2017**

Mr. Subhash Desai & Ors. ... Applicants

V/s.

The State of Maharashtra ... Respondent

**WITH  
CRIMINAL APPLICATION NO. 763 OF 2017  
IN  
ANTICIPATORY BAIL APPLICATION NO. 492 OF 2017**

Ms. Tarana Vaswani ... Applicant

**IN THE MATTER BETWEEN**

Mr. Subhash Desai & Ors. ... Applicants

V/s.

The State of Maharashtra ... Respondent

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Mr. Parvez Memon and Ravi Mishra i/b MZM Legal for the Applicant.  
Mrs. Rutuja Ambekar, APP for the Respondent/State.  
Mr. Archit Jayakar a/w Nikita Panse i/b Jayakar & Partners for the Applicant in  
APPP/763/2017.

**CORAM : A.S.GADKARI, J.  
DATE : 8<sup>th</sup> JANUARY, 2018**

**P.C.:**

. By a reasoned Order dated 22.01.2017, the Applicants were granted interim relief.

2 Heard the learned Counsel for the Applicant, the learned Counsel for the

first informant and learned APP. Perused the record of investigation.

3 The first information report is lodged by Ms. Tarana Vaswani alleging that she was bonafide licensee in the premises in question. That, a leave and licence agreement was executed between her father and the landlord namely Mrs. Rupa Desai. That the said Agreement was terminated on 15.11.2016 and despite, the said fact, the first informant was staying in the said premises. That on 15.02.2017, it was informed to the first informant by her well wishers that at about 1.30 p.m. the Applicants removed all her belongings from the said premises, the particulars of which are given in the first information report and in the premise the present crime is registered under Section 380 read with Section 34 of the Indian Penal Code.

4 The record indicates that leave and licence agreement entered into between the parties was terminated by the Landlords/Applicants by their Notice dated 14.10.2016. In response to the said Notice dated 14.10.2016, the first informant and her sister addressed a reply dated 15.11.2016 to the landlord under their own signatures and assured the landlord that they would vacate the said premises peacefully latest by the end of December 2016. The record further indicates that on 28.01.2017, the first informant and her sister vacated the said premises, however kept certain belongings of them in the said premises. The said fact can be discerned from the letter dated 28.01.2017 addressed by the landlord Mrs. Rupa Desai to the police. The record further reveals that on 29.01.2017, the

first informant has also lodged one crime bearing C.R.No. 55 of 2017 under Sections 341, 506 read with Section 34 of Indian Penal Code, alleging that the accused persons therein have replaced the lock put on the said premises and did not allow the first informant to enter into the said premises. That, the bouncers (guards) kept by the accused persons threatened the first informant of dire consequences. The record further indicates that the landlord Smt. Rupa Desai and the Applicants had received several complaints from the residents of the building that, the premises is stinking with excruciating smell emanating from the said premises and its occupants had kept pets which are causing public nuisance. It appears from record that in view thereof, the landlord issued the said Notice dated 14.10.2016 to the first informant for termination of licence Agreement and in pursuance thereof the first informant had vacated the said premises on 28.01.2017. In the premise prima facie, it appears that the allegations of the first informant that on 15.02.2017, the Applicants committed offence as contemplated under Section 380 of Indian Penal Code is an exaggerated version. After taking into consideration, the peculiar facts and circumstances of the present case, this Court is of the considered view that, for further investigation of the present crime, custodial interrogation of the Applicants is not necessary.

5 In view of the above, interim relief granted on 21.03.2017 is hereby confirmed, however condition to attend the Investigating Officer or concerned Police Station is waived.

6 Application is allowed in the aforesaid terms.

7 In view of order passed in ABA No. 492 of 2017, Application No. 763 of 2017 does not survive and is accordingly disposed of.

**(A.S.GADKARI, J.)**