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

ANTICIPATORY BAIL APPLICATION NO. 587 OF 2018

Mubin Akil Shaikh & Ors.

..Applicants

Vs

The State of Maharashtra

..Respondent

Mr. P. Arjunwadkar a/w Mr. Amir Shaikh for applicants.

Ms. A.A. Takalkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 21st June 2018.

P.C.:

1] By an Order dated 27th April 2018, the applicants were granted interim relief.

2] Heard the learned Counsel for the applicants and the learned APP. Perused the record of investigation.

3] The applicants are the partners of M/s Bano Construction Builders And Developers alongwith Mr. Shakil Akil Shaikh. The applicant No.1/Mubin Akil Shaikh is the brother Shakil Akil Shaikh and applicant Nos.2 and 3 namely Mohd. Akil Mohd. Kallu Shaikh and Mrs. Sirajbano Akil Shailh are the father and mother of Shakil Akil Shaikh and Mubin Akil Shaikh respectively.

4] It is the prosecution case that, the said partners of the firm constructed a building in a area known as Jivan Baug comprising of 12 floors near Mumbra Railway Station by forging and fabricating documents ostensibly issued by the Thane Municipal Corporation. After completion of building, the applicants sold flats therein to the needy people. The said building was constructed in the year 2007 and after it came to the knowledge of the residents of the said building that the Thane Municipal Corporation had granted construction permission upto 7th floors only and by using forged and/or fabricated documents, the applicants along with Shakil Akil Shaikh have erected the construction upto 12 floors and sold the flats to the people, the present crime is registered.

5] The learned Counsel for the applicants submitted that, in view of the affidavit filed by the Investigating Officer he has instructions to withdraw the application as far as the applicant No.1/Mubin Akil Shaikh is concerned as he is not pressing for the same. In view thereof, the present application qua the applicant No.1 Mubin Akil Shaikh stands dismissed as withdrawn.

6] As far as the applicant Nos.2 and 3 are concerned, the record indicates that, though they have alleged to be beneficiary of the proceeds of

crime, they were only sleeping partners in the said firm which was being run by Mr. Mubin Akil Shaikh and Mr. Shakil Akil Shaikh who are their sons. The applicant Nos.2 and 3 are also senior citizen. After perusing the record of investigation, prima facie it appears that the applicant Nos.2 and 3 have no direct role to play in the present crime and their custodial interrogation for further investigation of the crime is not necessary.

7] In view thereof, the applicant Nos.2 and 3 can be protected by pre-arrest bail.

Hence the following Order:-

i] Application qua the applicant No.1 Mr. Mubin Akil Shaikh is dismissed as withdrawn.

ii] As far as the applicant Nos.2 and 3 are concerned, interim relief granted by Order dated 27th April 2018 is hereby confirmed. However, the condition to attend the Investigating Officer/Police Station is waived.

8] Application is partly allowed in the aforesaid terms.

(A.S.GADKARI, J.)