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

ANTICIPATORY BAIL APPLICATION NO.1508 OF 2016

Gulam Hazrat Fateh Mohamed Khan & Anr

..Applicants

Vs

The State of Maharashtra & Anr.

..Respondents

Mr. Pradeep J. Thorat for applicants.

Ms. J.S. Lohokare, APP for State.

Mr. P.V. Vare for Original Complainant.

CORAM : A.S.GADKARI, J.

DATE : 13th FEBRUARY 2018.

P.C.:

1] This is an application under Section 438 of Cr. P.C. for pre-arrest bail in CR No. 360 of 2016 dated 30.6.2016 originally registered with Malvani Police Station, Mumbai under Sections 420, 465, 467, 468, 471, 120B3 of the Indian Penal Code and now being investigated by the Economic Offences Wing having renumbered CR No.63 of 2016.

2] Heard the learned Counsel for the applicant, the learned Counsel for the respondent No.2 and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Shri Mohammed Rizwan Aladia. In a road widening scheme the premises of the father of the first informant was affected and therefore the father of the first informant was entitled for alternate premises. That the Mumbai Municipal Corporation on 5.3.1980 allotted alternate place by a letter dated 5.3.1980 to the father of the first informant admeasuring about 1600 sq.ft. That after lot of correspondence, the said allotment was enhanced to 2800 sq.ft. That the father of the first informant expired on 25.5.1993. It is the allegation against the applicants that the applicants in connivance with the officers of the Mumbai Municipal Corporation, have forged and/or fabricated and/or prepared bogus documents of allotment of the plot which was originally allotted in favour of father of the first informant and got its possession. It is specifically alleged that, the applicants in connivance with the officers of the Corporation created bogus documents and got the said land allotted in their own favour thereby causing tremendous monetary loss to the first informant.

4] The learned Counsel for the applicant submitted that, the alleged forged documents have been received by the applicant from the office of the Mumbai Municipal Corporation. That the said documents are

in possession of either the Mumbai Municipal Corporation or the Investigating Officer and the applicants are not in custody of the same. He further submitted that, with respect to the said piece and parcel of land in question a civil dispute is sub-judice between parties inter-se. The applicants are the bonafide purchasers of the said land from its original allottee and therefore the applicants have nothing to do with the present crime. He further submitted that both the applicants attended the Investigating Officer on several occasions and therefore their further attendance and/or custody is not necessary and prayed that the applicants may be granted pre-arrest bail.

5] The learned APP on instructions submitted that, on the documents alleged to have been issued by Mumbai Municipal Corporation, instead of the photograph of father of the first informant someone else's photograph has been pasted on it. She submitted that, during the course of investigation the Investigating Officer has recorded the statement of one of the officer's of the Mumbai Municipal Corporation who has informed that the said documents or its copies are not on the record of the Corporation. She submitted that though the applicants attended the Investigating Officer on certain occasions, they did not co-operate in the process of investigation

and did not reveal the name of the persons from the Corporation who have manufactured the documents and therefore the present application may be rejected.

6] At the outset, it is to be noted here that though the crime is registered on 30th June 2016, the investigation of the present crime is being carried out in lackadaisical manner and apparently with a view to suit the applicants as the applicants are influential persons. The first information report is self-eloquent and categorically alleges that the applicants by preparing bogus and/or forged allotment letter, possession letter and other allied documents pertaining to the said land got possession of the land in question from the Corporation. It prima facie appears apparent that the allotment of land in favour of applicants from Mumbai Municipal Corporation is on the basis of forged and/or fabricated documents which is not possible without there being involvement of the officers from the Corporation.

7] The Investigating Officer till date has not taken any pains to unearth the truth behind the crime. Indubitably the allegation of manufacturing and/or creating bogus documents for allotment of plot of land owned by Mumbai Municipal Corporation is itself a serious offence

and requires thorough investigation at the hands of the police and the same is not possible without there being custodial interrogation of the applications. As noted earlier, though the applicants attended the Investigating Officer of certain occasions, they did not co-operate in the process of investigation and did not divulge the facts pertaining to preparation and/or manufacturing of bogus documents.

8] In view of the above and after taking into consideration the serious allegations against the applicants and the gravity of the offence, this Court is of the view that the applicants do not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

(A.S.GADKARI, J.)