

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1714 OF 2017

Durga Prashant Khatkhate & Ors. ... **Applicants**

V/s.

The State of Maharashtra & Anr. ... **Respondents**

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Mr.Niranjan Mundargi i/b. Triyama Legal, Advocate for the Applicants.

Ms.Anamika Malhotra, APP for the Respondent No.1/State.

Mr.M.S.Mohite i/b. Priyal G. Sarda, Advocate for the Respondent No.2.

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CORAM : A.M.BADAR J.

DATED : 3rd APRIL 2018.

P.C. :

1 By this application under Section 438 of the Code of Criminal Procedure, the applicants, who are office bearers of Prakurti Co-operative Housing Society Limited, are seeking pre-arrest bail in Crime No.149 of 2017 registered with Police Station Shivajinagar, Pune for the offences punishable under Sections 420, 463, 464, 465, 467, 468, 474, 120B read with Section 34 of the Indian penal Code.

2 Heard the learned Advocate appearing for the applicants/accused. He drew my attention to the FIR as well as the agreement for sale executed by the First Informant as well as owner of the land in favour of one of the member of the Society and submitted that to the knowledge of the First Informant, the area of the plot of land of the Prakurti Co-operative Housing Limited is shown as 35200 Sq.Mtrs. The learned Advocate further drew my attention to the written statement filed by the Society in the suit filed by the First Informant through the Society named Sri Sri Gurudev Co-operative Housing Society Limited and contended that it is the stand of the Society of the applicants that what was transferred to the Society of the applicants was a piece of land admeasuring 35200 Sq.Mtrs. The learned Advocate further submitted that the same is reflected in the by-laws of the Society and, therefore, as the by-laws of the Society are already in possession of the Investigating Officer, custodial interrogation of the present applicants is not warranted.

3 The learned Additional Public Prosecutor opposed the application by submitting that a false document is created by inserting the figure “35200 Sq.Mtrs.” in the blank space in the by-laws. Similar is the contention of Shri.Mohite, the learned Advocate appearing for the First Informant. He submitted that false document in the form of the by-laws is created by the applicants and this fact can also be gathered from the

communication by the Deputy Registrar of Co-operative Societies addressed to the Senior Police Inspector of Shivajinagar Police Station, Pune. Therefore, custodial interrogation of the present applicants is warranted.

4 I have carefully considered the rival submissions and also perused the record of investigation made available. Undisputedly, by-laws of Prakurti Co-operative Housing Society Limited of which the present applicants were the office bearers came to be seized by the Investigating Officer. In Chapter IV of those by-laws dealing with objects of the Society, area of the plot in question is not printed, but it is mentioned by writing figure as “35200 Sq.Mtrs” The dispute regarding actual area of the land belonging to the Prakurti Co-operative Housing Society Limited is pending with the Competent Authority. It is seen that even prior to lodging the FIR, there were several disputes in respect of construction made over the plot in question. The Municipal Corporation had issued notice for demolition of the building by contending that the scheme came to be sanctioned by using FSI, which was not available under the agreement with the original owner and then Writ Petition came to be filed by the First Informant for protecting the interest of Prakurti Co-operative Housing Society Limited. In that Writ Petition, the said Society also intervened and the Division Bench of this Court had stayed the demolition. Now, according to the First Informant, the area of

land allotted to the Society is only 11500 Sq.Mtrs. and this aspect is pending adjudication before the Competent Authority.

5 In this view of the matter and as the Investigating Officer has already seized the by-laws of the Prakurti Co-operative Housing Society Limited, custodial interrogation of the present applicants is not warranted. As such, the Order :

ORDER

- (i) The Order dated 28th September 2017 passed by this Court (Coram : A.S.Gadkari, J.) granting ad-interim anticipatory bail to the present applicants is confirmed on the same terms and conditions.
- (ii) In addition, the applicant should not extend threats, promises or inducements to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;
- (iii) The Application is disposed of accordingly.

(A.M.BADAR J.)