

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.2432 OF 2018

1. Mirza Salim Ataullah Baig, Age 64 years,
2. Mirza Farzana Salim Baig, Age 55 years,
3. Mirza Ataullah Salim Baig, Age 29 years,
4. Mirza Samiullah Salim Baig, Age 26 years,
All R/o. Room no.1, Abdul Nabi Chawl,
Makrani Mohalla, Subhash Road,
Opp.Makkah Masjid, Jogeshwari (East),
Mumbai-400 060.

Applicants

versus

The State of Maharashtra

Respondent

Mr.Himanshu S. Shinde for applicants.

Mr.M.G.Patil, APP, for State.

Mr.Abhijeet Thorat, PSI, Jogeshwari Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th November 2018

PC :

1. This is an application for anticipatory bail in CR No.153 of 2018 registered with Jogeshwari Police Station for offences under Sections 452, 336, 143, 147, 504, 506, 427 and 34 of Indian Penal Code. The applicants preferred application for anticipatory bail before the Sessions Court which was rejected by order dated 2nd November 2018.

2. The prosecution case is that the complainant company is developing property viz CTS No.81/A, CTS No.81/A-3 to 51 and CTS No.81/C situated at village Majas, Tahira Compound, Jogeshwari (East), Mumbai. The accused are residing on the boundary of the

said project. They obstructed the redevelopment of the property. It is alleged that the accused are threatening and abusing the employees of company. The security wall which has been constructed has been demolished by the accused and the iron sheets which were put up at the place of project are also damaged by the accused.

3. The contention of the applicants is that they were not present at the scene of offence at the time of alleged incident. It is submitted that the residents of locality have objected for the project because the developer has encroached upon the area and covered excessive area. It is also contended that several complaints were lodged with the police station against complainant company.

4. Learned APP submitted that the statement of eye witness indicate the involvement of accused. The CCTV footage also supports the case of prosecution. There is sufficient evidence against the applicants-accused showing their involvement in the crime. They have been creating obstructions and hurdles in completion of the project and caused damage to the security wall.

5. It is noted that the residents in the area are purportedly objecting the project on certain issues. There are counter complaints lodged with police at the instance of residents. Learned APP, however, submitted that those complaints were investigated and no substance was found in the allegations made by the residents. It is, therefore, clear that the dispute relates to property and custodial interrogation of the applicants is not necessary. In the aforesaid circumstances case for grant of anticipatory ail is made out.

6. Hence, I pass following order :

ORDER

- (i) Criminal Anticipatory Bail Application No.2432 of 2018 is allowed and disposed off;
- (ii) In the event of arrest of applicants in connection with CR No.153 of 2018 registered with Jogeshwari Police Station, the applicants be released on bail on furnishing PR bond in the sum of Rs.15,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall report the investigating officer as and when called for;
- (iv) The applicants shall not tamper with the evidence.

(PRAKASH D. NAIK, J.)

MST