

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

ANTICIPATORY BAIL APPLICATION NO.434 OF 2019

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| 1) Arif Razzak Chunawala; | |
| 2) Abdul Razzak Ahmed Chunawala; and | |
| 3) Farook Razzak Chunawala | .. Applicants |

Vs.

State of Maharashtra	.. Respondent
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Mr.Prashant Aher, Advocate for the Applicants.
Mr.A.R. Kapadnis, APP for the Respondent-State.
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CORAM : PRAKASH D. NAIK, JJ.

DATE : FEBRUARY 22, 2019.

P.C.:

This is an application for anticipatory bail in connection with C.R.No.440 of 2018, registered with Amboli Police Station, Mumbai, for the offences punishable under Sections 420, 465, 468, 471 read with 34 of Indian Penal Code ("IPC", for short).

2 The case of the prosecution is that the complainant is employee of Municipal Corporation of Greater Mumbai, as Deputy Chief Engineer (Building Proposal) Western Suburb-I, having his office at Bandra (West), Mumbai. In the complaint dated 16th October, 2018, it is alleged that Smt.Deepika Tawade had forwarded

a complaint on 30th October, 2017 for building situated at Rehan Terrace at CTS No.74, 74/1 to 15, Jogeshwari (West), Mumbai, no NOC was given vide online as the same is not reflected online. Inquiry was made. On scrutiny of the NOC issued to the building, the same was noticed in the file and on line. The NOC was sent to the office of Civil Aviation, New Airport Colony, Vile Parle (East) on 20th November, 2017. No response was received inspite of letter dated 20th November, 2017 from the office of Civil Aviation, and, hence, reminders were forwarded on 30th November, 2018 and 6th April, 2018 to the Civil Aviation, who by their letter dated 3rd April, 2018, informed the office of the complainant that records of their office and the NOC sen for verification, does not match with each other. It is further alleged that through the aforesaid letter, it was stated that NOC dated 27th December, 2017, were issued to M/s.Square Consultant, 113/B, Shyamkamal, B Building, Agarwal Market, Tejpal Road, Vile Parle (East), Mumbai in the name of applicant no.1 for construction site at CTS No.10/A Vile Parle (West), Mumbai. NOC was verified by the complainant with their office record. It was transpired that the NOC was with the name of Sameer Chunawala, had been used and is being used and issued for CTS No.74, 74/1 to 15. On 12th April, 2018, letter was issued from Airport Authority of India making inquiry as to who has forwarded

the NOC to the MCGM office for the purpose of verification and also sought information about the status of construction. It was revealed that the NOC found in the office of MCGM was fake. The complainant then, forwarded letter to M/s.Fairmount Construction and sought explanation. It is also alleged that M/s.Sarang & Associates had submitted NOC dated 16th June, 2008, and as such submitted NOC from Civil Aviation and sought permission to construct the building and subsequent architect have submitted another NOC dated 27th December, 2011, and sought building permission. It is alleged that the architect attached to Gajjar and Associates obtained building permission by submitting the NOC. The NOC is issued by Civil Aviation were found to be forged.

3 Applicant preferred an application for anticipatory bail before the Sessions Court, which was rejected by order dated 14th February, 2019.

4 Applicant contended that the entire case relates to documents and custodial interrogation of the applicant is not necessary. Applicants are not concerned with the forgery of documents. The persons named in the FIR were released on regular bail vide order dated 8th February, 2019. Custodial interrogation of

the applicant is not necessary. NOC issued in the name of applicant no.1 is original and the same is confirmed/found to be true and confirmed by Civil Aviation, Airport Authority of India and no offence is alleged to have been committed by the said applicant. The original NOC issued in the name of applicant no.1 have been allegedly misused by the other accused for obtaining building permission in the name of Sameer Chunawala, who is one of the partner of M/s.Fairmount Construction. Applicants have no role to play. The involvement of the applicants was allegedly disclosed subsequently. The co-accused are granted bail. The applicants are willing to cooperate with the investigation. The complaint was filed belatedly.

5 Learned APP submitted that the offence is of serious nature. Fabricated documents were utilized by the accused. They are responsible for committing forgery of the said documents. Their custodial interrogation is necessary.

6 Case of the prosecution relates to the NOC granted by Airport Authority for construction of Rehan Terrace. On verification it was found that the NOC obtained by the accused for construction of Rehan Terrace were issued for different persons for development

by different people and it is not referred to the records with the details of NOC has sent for verification by MCGM. The office of the MCGM checked their records as to who had submitted the said NOC and it was found that the same was submitted by M/s.Sarang and Associates, Gajjar and associates and Mr.Jayram Shah. Stop work notice was issued to the developer and explanation was sought. It is the contention of the prosecution that forged documents is seized from the possession of the accused. It is noted that applicants sought permission and prepared forged documents of NOC of the Airport Authority and produced the same through his architect, for obtaining building permissions from the office of MCGM. During investigation, it is revealed that NOC of Civil Aviation issued to Rehan Terrace was verified through Airport Authority of India, head office, Mumbai and it was disclosed that the NOC record do not match with record in its office. Hence, fabricated NOC of Civil Aviation for Rehan Terrace building was prepared and submitted to MCGM by accused. C.R.No.48 of 2016, for the offences punishable under Sections 420, 465, 467 and 471 of IPC is registered against applicant no.2. Learned Sessions Judge while rejecting the application has observed that the applicant being the Directors of the company, were aware about the documents which were submitted by the architect and without their

knowledge, the same cannot be submitted to the MCGM. Considering the nature of allegations and the factual matrix of this case, no case for grant of anticipatory bail is made out and hence, the application is required to be rejected.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application is rejected.

(PRAKASH D. NAIK, J.)