

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 910 OF 2019

Sohail Nawab Baig	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.A.A. Dandekar for Applicant.
Ms.Rutuja Ambekar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 15th April 2019.

P.C. :

1] The applicant is apprehending arrest in connection with C.R. No.I-148 of 2018 dated 26/07/2018 registered with Nizampura Police Station, District-Thane, for the offence punishable under Section 304, 337, 338, 427 read with 34 of the Indian Penal Code.

2] Heard the learned counsel for the applicant and the learned APP for the State. Perused the record of investigation.

3] The prosecution case in brief is that, a ground plus three storey structure constructed on Survey No.19 bearing House No.70,

Khadipar, Bhiwandi, District Thane, collapsed on 24th July 2018 and in the said incident one woman lost her life and eight other persons have suffered serious to grievous hurts. It is the further prosecution case that, the accused No.1 Foujan Abdul Hamid Suse was the developer of the said property and the original accused No.2 Gulam Mohiuddin Mahemood Nakhuda was the original owner of the said landed property. The applicant was Sarpanch of Khoni Grampanchayat from the year 2003 to 2010 within whose jurisdiction the said property was situated. It is the allegation against the applicant that, though he was not having lawful authority to grant permission to construct and to add additional floors on the said immovable property, he illegally and for his personal benefit renewed the construction permission in the year 2010.

4] The learned counsel for the applicant submitted that, under the provisions of the Maharashtra Village Panchayat Act, the applicant can issue 'No Objection Certificate' for construction of a premises/construction of a house, within the jurisdiction of the village panchayat. He further submitted that the building in-question was constructed by accused No.1 Foujan Abdul Hamid Suse and as far as its quality of construction is concerned, the applicant had no control over it.

He submitted that the investigation of the present crime is completed and the police have already submitted chargesheet and therefore, the custodial interrogation of the applicant for further investigation of the present crime is not necessary. He, therefore, prayed that the applicant may be protected by pre-arrest bail by allowing the present application.

5] The investigation carried out till date clearly indicates that though the Planning Authority in the area of Taluka Bhiwandi was the MMRDA, the applicant without having any lawful authority in that behalf has renewed the original construction permission granted in the year 1998. The applicant has signed the said renewal permission without having lawful authority. The prosecution has applied Section 34 of the Indian Penal Code to the present crime. The role of the applicant has emerged on record during the course of investigation of the present crime. The fact that one human being has lost life cannot be overlooked. As noted earlier, there are seven other persons who have suffered serious to grievous hurt in the said incident. It is the collective responsibility of the applicant in the said incident. It appears that, since the date of lodgment of the crime, the applicant was not traceable to the police and therefore, the investigation qua him could not be completed,

though the police have submitted chargesheet as against the other accused persons. The allegation against the applicant is undoubtedly serious in nature and needs thorough interrogation of the police. *Prima-facie*, there is sufficient material available on record to show the clear complicity of the applicant in the present crime.

6] After taking into consideration the afore-stated facts, the gravity of the offence and serious allegations against the applicant, this Court is of the considered view that the applicant does not deserve to be protected by pre-arrest bail.

7] Application is, accordingly, rejected.

[A.S. GADKARI, J.]