

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPTORY BAIL APPLICATION NO. 1259 OF 2019**

1. Nasim Ahmad Ansari
2. Zahir Siddhiq Shaikh
3. Arif Iqbal Ansari
4. Ashraf Saife (Ansari)

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr. Napoleon Tuscano for the Applicants

Mr. A. A. Palkar, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 13th JUNE 2019

P.C.

1 Heard learned counsel for the parties.

2 By this application, the applicants seek pre-arrest bail in connection with C.R. No. II-38 of 2014 registered with the Nallasopara Police Station, for the alleged offences punishable under Sections 53 and 54 of the Maharashtra Regional Town Planning Act.

3 Perused the papers. The complaint is filed on 29th June 2014 by the in-charge Deputy Commissioner of the VVCMC-Surendra Patil as

against the applicants for the aforesaid offences. It is alleged in the said complaint that on 1st April 2014, when the Clerk of Encroachment Department visited the place near Axa Bakari, Takipada Sopara-Grass Road, Nallasopara (East), he found that the applicants had done illegal construction, without seeking permission of the authority. Accordingly, notices were issued to the applicants to remove the illegal construction and stop the illegal use of the said land. It appears that despite notice, the illegal construction was not removed and hence, the aforesaid complaint was lodged.

4 Learned counsel for the applicants submits that the applicants are not the owners of the illegal construction and therefore, the question of removing the illegal construction by the applicants does not arise. It appears that again on 15th March 2019, the police have issued notices under Section 41A(1) of Cr.P.C, pursuant to which, the aforesaid application for anticipatory bail has been filed.

5 In the facts, whether or not the applicants are the owners of the illegal construction, is a matter, which will be decided by the appropriate

authority. In the facts, custodial interrogation of the applicants is not necessary. Accordingly, the application is allowed and the applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.15,000/- each, with one or two sureties in the like amount;
- (ii) The applicants shall report to the Investigating Officer of the concerned Police Station on 19th and 20th June 2019 from 10:00 a.m. to 12:00 noon and thereafter as and when called;
- (iii) The applicants shall cooperate in the conduct of the trial;
- (iv) The applicants shall inform their latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Investigating Officer of the concerned Police Station.

6 The application is allowed in the aforesaid terms and is accordingly disposed of.

7 It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application.

8 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.