

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1566 OF 2018

Asadullah Abdullah Sayyid	...	Applicant
V/s.		
The State of Maharashtra & Anr.	...	Respondents

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1592 OF 2018**

Mohammed Imtiyaz Khan	...	Applicant
V/s.		
The State of Maharashtra & Anr.	...	Respondents

**WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2532 OF 2018**

Mohammed Afaque Ansari	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.Arshad Shaikh i/b. Mr.A.B. Ansari for Applicant in ABA/1566/2018.
Mr.P.R. Dave for Applicant in ABA/1592/2018 and ABA/2532/2018.
Ms.Rutuja Ambekar, A.P.P. for Respondent-State.
Mr.Darshit Jain a/w. Mr.Hafeez i/b. CNH and Associates for Intervenor.

CORAM : A.S. GADKARI, J.

DATE : 10th April 2019.

P.C. :

1] Heard the learned counsels for the respective applicants, the learned counsel for the first informant and the learned APP for the State. Perused the record of investigation.

2] By an order dated 13th August 2018 the applicants in ABA No.1566 of 2018 and 1592 of 2018 were granted interim relief. The applicant in ABA No.2532 of 2018 was granted interim relief by an order dated 11th December 2018.

3] The applicant in ABA No.1566 of 2018 is a practicing 'Advocate and Notary' by profession.

The applicant in ABA No.1592 of 2018 is the Chief Promoter and Office bearer of “Al Aqsa Co-Operative Housing Society Limited” (proposed) for redevelopment of three buildings i.e. Chunawala Building, Ali Jalal Building and Municipal Tenants Building [*here-in-after referred as “the said society”*].

The applicant in ABA No.2532 of 2018 Mohammad Afaque Ansari is a Director of Mahanagar Construction Private Limited, which has undertaken the work of redevelopment of the said society.

The first information report is lodged by Smt.Parvin Iqbal

Darvesh.

It is the prosecution case that, the applicants in ABA No.1592 and 2532 of 2018 in connivance with 11 other committee members forged signatures of certain members of the said society, allegedly showing their consent for redevelopment and submitted those documents with the Competent Authority. It is alleged that, out of 139 members of the said society only 108 persons have been shown to have given the consent for redevelopment.

It is alleged that, the applicant in ABA No.1566 of 2018, an Advocate and Notary by profession, has got executed certain documents without the concerned executors being present before him and has also facilitated the other accused persons in preparing back-dated documents. It is further alleged that, when some of the members allegedly signed in the 'Notarial Register' of the Notary, the concern persons were not present their. That the Notarial register was also not available when the witnesses signed it. It is the specific prosecution case that, the applicants herein in connivance with other office bearers of the said society i.e. Al Aqsa Cooperative Housing Society Limited (Proposed) created bogus consent letters of many members and got it notarized. The

said documents were subsequently produced before the Competent Authority of the Mumbai Municipal Corporation for redevelopment of the property of the society and have thereby committed the act of cheating against the concerned.

4] The record indicates that, the dispute pertaining to the redevelopment of the societies in question and in particular Chunawala Building Tenants Co-operative Society Limited was raised before the Division Bench of this Court in Writ Petition No.2143 of 2017 and the Division Bench by its order dated 13th December 2017 was pleased to issue certain directions while disposing of the said petition.

The record further indicates that, the first informant and the persons from her group thereafter submitted their objections with the concerned Authority and the issue involved therein is pending for final adjudication before it.

It further *prima-facie* appears that, the first informant and the persons supporting her are from the minority group who are opposing the redevelopment of the said society by the applicant in ABA No.1592 of 2018. It further *prima-facie* appears that there are disputes among the members of the said society for having control over its affairs.

5] The learned APP, on instructions, submitted that, as on today only 3 persons out of 108 members have given their statements stating that, their signatures on the consent forms or consent letters are not genuine. It appears that, the Investigating Officer till date has not taken specimen handwriting of the said persons for sending it to the Forensic Science Laboratory for ascertaining the fact behind it.

 The original consent letters of the said 108 members of the society are already forwarded to the Competent Authority for its consideration to grant permission for redevelopment of the society and the Investigating Agency can verify the same and/or seize it, if necessary, under the law, from the said authority.

 The Investigating Agency is always at liberty to call the concerned witnesses to give their specimen signatures and to send it to the Forensic Science Laboratory for ascertaining the fact whether the signatures are really forged or otherwise. It is to be noted that, merely because a person has signed in two different languages, cannot be a ground for asserting that his/her signature is not genuine.

6] In view of the above and after perusing the record of investigation, this Court is of the opinion that, the custodial

interrogation of the applicants for further investigation of the present crime is not necessary.

Interim relief granted to the applicants by orders dated 13th August 2018 and 11th December 2018 respectively is hereby confirmed.

7] Applications are allowed in the aforesaid terms.

[A.S. GADKARI, J.]