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

ANTICIPATORY BAIL APPLICATION NO.1855 OF 2019

Mukesh Hariprasad Agrawal

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.Amarendra Mishra, for the Applicant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 24th SEPTEMBER, 2019

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No 221 of 2019, registered with the Kasturba Marg Police Station, Mumbai, for the alleged offences punishable under Sections 143, 147, 149, 441, 452, 323, 504, 506, 427 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the complaint is lodged by the daughter-in-law of the watchman-Arjun Patel, who is claiming a room in a plot, purchased by the Applicant. Learned counsel for

the applicant submits that as the building on the said plot was dilapidated, and that pursuant to the notice of the Bombay Municipal Corporation, under Section 354 of the MMC Act, the building on the said plot demolished. He submits that pursuant to the said notice under Section 354, the complainant's father-in-law's room, where he was residing as a watchman, was also demolished. Learned Counsel submits that Arjun Patel, who was working as a watchman in said premises had no right, title and interest in the said room. He further submits that except section 452 of the IPC, all other sections are bailable.

4. Learned APP has filed an affidavit of Sudhir B. Mote, Police Sub Inspector, Kasturba Marg Police Station, Mumbai, for opposing the application. The same is taken on record. Learned APP submits that the applicant could not have demolished the room/hut of the complainant and that the compound wall could have been constructed without disturbing the room/hut of the complainant.

5. Perused the papers. It appears that pursuant to the notice issued by the Mumbai Municipal Corporation under Section 354 of the Mumbai Municipal Corporation Act, dated 6th May, 2016, the building was demolished. It appears that whilst demolishing the building, the

complainant's room/hut was also demolished by the applicant. It appears that the complainant's father-in-law – Arjun Patel was working as a watchman in the said premises and that his room/hut, was also demolished. Whether or not the said room/hut/construction was rightly demolished by the applicant, is a matter which will be decided by the appropriate Court. It is always open for the complainant to take out appropriate proceedings, in this regard. The applicant has reported to the Investigating Officer of the concerned Police Station, as directed by this Court vide interim order dated 23rd August, 2019.

6. In the facts of the present case, custodial interrogation of the applicant is not warranted. The application is accordingly allowed and the interim protection granted vide order dated 23rd August, 2019, is confirmed on the following terms and conditions:-

ORDER

(i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount ;

(ii) The applicant shall report to the Investigating Officer of the concerned Police Station, as and when called;

(iii) The applicant shall co-operate with the Investigating Agency.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application.

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

REVATI MOHITE DERE, J.