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

ANTICIPATORY BAIL APPLICATION NO.2242 OF 2017

Jairumi Ejaj Abdul Latif

..Applicant

Vs

The State of Maharashtra

..Respondent

Mr. Rizwan Merchan a/w Akshay Bafna i/b Rizwan Merchant & Associates
for the Applicant.

Mr. Amit Palkar, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 19th March 2019.

P.C.:

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

2] By an Order dated 18th January 2018, the applicant was granted
interim relief and was directed to attend the Investigating Officer on
stipulated dates, to join the process of investigation.

3] The first information report is lodged by Shri Surendra A.
Mohite, Deputy Town Planner, attached to MMRDA having office at Thane.
The prosecution case in brief is that, on 26.7.2010 an application was filed
by Smt. Savita G. Shah seeking commencement certificate for construction
of godown on the landed property bearing Survey No.70/2 situated at

village Vadpe, Taluka Bhiwandi along with other documents. It is subsequently revealed that, the documents annexed to the said application including a plan by the T.I.L.R. with bogus seals were forged and/or fabricated. The said documents were submitted through an Advocate on behalf of his client Mr. Kamsudul Hasan Momin to the MMRDA Authority. In the premise the first information report is lodged.

4] The learned counsel for the applicant submitted that, in Order dated 26.4.2017 passed by this Court, it is observed that, the alleged fabricated documents were submitted by Kamsudul Hasan Ayub Momin to MMRDA Authority and the commencement certificate has already been cancelled by the concerned Authority. He submitted that in report dated 11.12.2017 submitted by the Investigating Officer to the Court of Sessions while passing Order on anticipatory bail application of Smt. Savita Shah, it is stated that, the said person namely Kamsudul Hasan Ayub Momin has been now been made as a witness instead of making him as an accused in the present crime. He further submitted that, there is no material on record with the prosecuting Agency which makes it necessary to implead the applicant as an accused and/or seeking his custody. He further submitted that, in pursuance of directions issued by this Court the applicant on various occasion attended the Investigating Officer and has joined the

process of investigation. He therefore prayed that the custodial interrogation of the applicant is not necessary and he may be protected by pre-arrest bail.

5] A useful reference at this stage can be made to the decision of the Supreme Court in the case of *State Rep. by The C.B.I vs Anil Sharma reported in (1997) 7 SCC 187*, wherein the Honourable Supreme Court has held that, the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual.

In view the ratio laid down by the Supreme Court, the contention of the learned counsel for the applicant that, the applicant attended the Investigating Officer on various occasions is of no avail to him.

6] Perusal of the record of investigation would indicate that, a witness namely Shri Nagnath Madvi in his statement has specifically stated

that when he expressed his willingness to convert his agricultural land in Non-Agricultural use, to a person of his acquaintance, the said person informed him that the applicant herein is in the practice/profession of the same, in the vicinity of Bhiwandi, who will get the said job done i.e. convert his agricultural land to Non-agricultural land. The said witness therefore gave the documents of his land such as 7/12 extract and other relevant documents to the applicant and the applicant thereafter gave the N.A. permission to the said witness. This fact is surfaced on record in the present crime. It is revealed during investigation that, the said NA permission given by the applicant is a bogus document. The applicant who is the concern person to manufacture the said bogus NA permission.

There is another witness who has also received a bogus NA permission from the Competent Authority pertaining to his land through his Agent i.e. applicant herein. It is the prosecution case that, the applicant is instrumental in manufacturing or preparing the said bogus permission.

7] Prima facie, the applicant has prepared and/or manufactured the bogus permission allegedly issued by the Competent Authority. It is also the allegation that, the official seal of T.I.L.R., Bhiwandi is also fabricated and used on the map of the land on which the godown was proposed to be constructed. It is the allegation of the prosecution that the applicant is the

perpetrator of the present crime.

According to this Court, there are serious allegations against the applicant and requires thorough investigation at the hands of the police.

8] In view of the above and after taking into consideration the gravity of the offence and serious allegations against the applicant, this Court is of the opinion that, the applicant does not deserve to be protected by pre-arrest bail.

9] Application is accordingly rejected.

10] At this stage, the learned counsel for the applicant submitted that, the applicant intends to challenge the present Order before the Honourable Supreme Court and submitted that, the interim relief granted by order dated 18th January 2018 may be continued for a period of three weeks from today.

In view of the above, interim relief dated 18th January 2018 shall remain in operation utpo 15th April 2019.

(A.S.GADKARI, J.)