

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2518 OF 2018**

Naushad Khan	...Applicant
Versus	
State of Maharashtra & Anr.	...Respondents

Mr. Ashish Dubey for the Applicant

Mr. A. R. Kapadnis, A.P.P for the Respondent-State

API Mr. Sandeep Vedpathak from Goregaon Police Station, Mumbai, is present

CORAM : REVATI MOHITE DERE, J.
THURSDAY, 18th JULY 2019

P.C.

- 1 Heard learned counsel for the applicant.

- 2 By this application, the applicant seeks pre-arrest bail in connection with FIR No. 551 of 2018 registered with the Goregaon Police Station, Mumbai, for the alleged offences punishable under Sections 452 and 34 of the Indian Penal Code.

- 3 Learned counsel for the applicant submits that the applicant is, in no way, connected with the alleged offence. He further submits that the

applicant was not present at the spot when the alleged incident took place.

4 Learned A.P.P submits that the premises which was given on leave and license by the applicant to the complainant was a MHADA premises, when infact, the applicant had no authority to give the said premises on leave and license to the complainant and accept money. Learned A.P.P relies on the letter dated 19th January 2019 issued by MHADA to show that the premises which was given on leave and license basis by the applicant to the complainant, was a MHADA property. He further submits that the applicant is involved in similar offences, where he has trespassed MHADA flats and given the said flats on leave and license basis to innocent persons.

5 Perused the papers. According to the complainant, they were residing in room No. 331/B/22, Siddharth Nagar, Goregaon (West), Mumbai, from 1st May 2018 pursuant to the leave and license agreement entered into between the applicant and him. According to the complainant, the applicant falsely stated that he is the owner of the said room premises and gave the said room premises on leave and license basis to him and his

wife. The complainant has further stated that he paid a deposit of Rs. 1,50,000/- to the applicant and also spent Rs. 25,000/- for repairing the said room. He has stated that on 8th October 2018, he and his wife went out for work and when they returned at about 8:30 p.m., they found that their belongings were kept out and some unknown lady by the name, Baig was occupying the said room. On questioning the said lady, the said lady told the complainant that she had purchased the said room from the actual owner (not the applicant). Pursuant to the aforesaid, the FIR was lodged as against the applicant.

6 Admittedly, the applicant is not the owner of the said premises, which he gave on leave and license basis to the complainant and accepted a heavy deposit. It appears that the applicant has similarly cheated other innocent persons by entering unauthorisedly into property/flats and giving the said rooms on leave and license basis to innocent persons. There is another CR registered as against the applicant.

7 Considering the aforesaid, this is not a fit case to grant pre-arrest bail to the applicant. The application is accordingly rejected.

8 It is made clear that the observations made herein are *prima facie*, for the purpose of deciding this application and if an application for regular bail is filed, the learned Judge shall consider the same on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.