

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

**ANTICIPATORY BAIL APPLICATION NO.1057 OF 2019
WITH
INTERIM APPLICATION NO.1887 OF 2021**

- 1) Vinod R. Chavan; and
2) Mrs.Baljinder Kaur V. Chavan .. Applicants

Versus

State of Maharashtra .. Respondent

.....

Mr.Atul Bihari Dubey, Advocate for the Applicant in ABA.

Mr.Pankaj Pandey, Advocate for the Intervenor in IA.

Mr.R.M. Pethe, APP for the Respondent - State.

.....

CORAM : PRAKASH D. NAIK, J.

DATED : AUGUST 6, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.168 of 2019, registered with Mumbra Police Station, District-Thane, for the offences punishable under Sections 420, 465, 467, 471, 504 and 506(2) read with 34 of Indian Penal Code ("IPC", for short).

2 The case of the complainant is that the complainant was in occupation of room No.202 Datevali, Diva. The entire area wherein the room was situated was to be developed under the

SRA project. The applicants were neighbours of the complainant. The relations were cordial. The applicants were forced to evict the room occupied by them on rental basis. The applicants requested the complainant and his wife to provide their room premises to them. They were requested for financial help. The complainant parted an amount of Rs.1,65,000/-, in cash. The room premises viz. Room No.202 situated at KJ Complex, Samrath Nagar, Diva, was provided to applicants for a period of 15 days. Key was handed over to them. Subsequently, the complainant requested the applicants to vacate the premises. Thereafter the applicant no.1 requested that he would extend the stay and execute the agreement with the complainant and would pay an amount of Rs.6000/-, per month as rent. However, no such agreement was executed. No rent was provided by the applicants. In spite of request, the applicants did not vacate the premises. The complainant and his wife were abused and threatened of dire consequences. Complainant lodged complaint with police on 5th March, 2018. Applicant no.1 showed the documents dated 7th January, 2017, in the form of Mutual Understanding Agreement. The said document was fabricated. Photographs were misused. The applicants continuously occupied the premises without any legal right. FIR was lodged on 9th March, 2019.

3 Applicants had preferred application for anticipatory bail before the Sessions Court and the same is rejected.

4 Learned advocate for the applicant submitted that the dispute is of civil nature. MOU was prepared between the complainant and applicant no.1. Complainant has filed a suit and the proceedings are pending in the Court. Applicants are in possession of the premises. Custodial interrogation of the applicants is not necessary. The applicant no.1 has assisted complainant in SRA Project, and, he was entitled for commission of 25%. Applicant no.2 has filed complaint of threat against complainant.

5 Learned APP submitted that the claim of the applicants is false. They are unauthorizedly in occupation of the room premises belonging to the complainant. MOU is false. Learned counsel for the complainant submitted that the MOU is false and fabricated. Since 2017, the applicants are occupying the premises, they do not have legal right to occupy the premises.

6 The claim of the applicants, *prima facie*, appears to be false. The complainant has legal right over the subject premises. applicants are residing at the said premises, since

2017, without paying any rent. Merely on the ground that suit is filed by the complainant, it cannot be said that the offence is not made out. False representations were made by applicants. Complainant was abused and threatened. Applicant no.2 is the wife of applicant no.1. Considering the fact that she is a lady and prime role is attributed to applicant no.1, the applicant no.2 need not be subjected to custodial interrogation. The attitude of applicant no.1 is dishonest, which is apparent on the face of record. He has been occupying the premises without any legal right. The document is apparently fabricated. Hence, no case for grant of anticipatory bail is made out by applicant no.1.

:: ORDER ::

- (i) Anticipatory Bail Application No.1057 of 2019, is partly allowed;
- (ii) Application of applicant no.1, is rejected;
- (iii) In the event of arrest of applicant no.2 in connection with C.R.No.168 of 2019, registered with Mumbra Police Station, District - Thane, she be released on bail on executing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;

- (iv) Applicant no.2 shall report the investigating officer, as and when called for;
- (v) Anticipatory Bail Application No.1057 of 2019, stands disposed of;
- (vi) Interim Application No.1887 of 2021, is disposed of.

(PRAKASH D. NAIK, J.)