

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

**ANTICIPATORY BAIL APPLICATION NO.434 OF 2021
WITH
INTERIM APPLICATION NO.705 OF 2021**

Sudarshan Tukaram Mhatre and Anr.

.. Applicants

Versus

State of Maharashtra

.. Respondent

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Mr.Ayush Pasbola a/w. Mr.Waqar Pathan i/b. Mr.Prajyot Shrivastav, Advocate for the Applicants.

Mr.D.S. Mhaispurkar, Advocate for the Applicant in IA.

Mr.A.R. Kapadnis, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : APRIL 26th, 2021.

P.C. :

Applicant is seeking pre arrest bail in connection with C.R.No.21 of 2021, registered with Dombivli Police Station, District-Thane, for the offences punishable under Sections 385, 420 and 506 (II) of Indian Penal Code (“IPC”, for short).

2 Applicant no.2 is son of applicant no.1. They are engaged in business of construction and cable operator. Applicant no.2 is partner of M/s.Machindranath Enterprises, a partnership concern carrying business of construction. The grievance of the

complainant is that from December 2017 to January 2021, the ancestral property situated at Ayare village Survey No.82 Hissa No.1 admeasuring 40 Guntha was given for development through M/s.Machindranath Enterprises to Sushant Mhatre, Manish Kedar and Vishal Mhatre by executing development agreement. They committed breach of condition of agreement. The complainant/owner were deprived of their 50% share returns towards 17 rooms to the tune of Rs.1,10,50,000/- were not given to the complainant. On demanding their share, the accused refused to hand over the amount and also threatened them that he would not release the plot. By pointing out revolver, the complainant was threatened that they would be killed. On the contrary the accused demanded Rs.2 crores from the complainant and tried to extort amount from them. Hence, the FIR was lodged.

3 The applicant had preferred the application for bail before the Sessions Court, which has been rejected vide order dated 8th February, 2021.

4 During the course of hearing of this application, both the parties had contended that the dispute has been resolved between them. Affidavit in that regard was tendered in the Court.

Affidavit dated 17th March, 2021, executed by Sudarshan Tukaram Mhatre (applicant no.2) mentions that M/s.Machindranath Enterprises executed a Development Agreement with the complainant and other co-owners in respect of property bearing Survey No.82, Hissa No.9, area admeasuring 4000 sq. meters situated at village Ayare, Taluka Kalyan, District-Thane. As per the development agreement, M/s.Machindranath Enterprises agreed to give consideration in the form of 50 % of the constructed rooms and Rs.5,00,000/- towards security deposit to the complainant and other co-owners. M/s.Machindranath Enterprises constructed 62 rooms and liable to hand over 31 rooms to the complainant and other owners for settling their claim. The applicant was handed over possession of 2 rooms to the co-accused and the balance 29 rooms to complainant and other co-owners. They have given consideration of 12 rooms amounting to Rs.78,00,000/- to the complainant and since 17 rooms were not handed over to the complainant, a dispute had arisen between them. The applicant had filed civil suit against the complainant. Both the parties have amicably settled the dispute by executing consent terms. In accordance with the settlement, the applicant undertake to give possession of 14 rooms to the complainant viz. Room Nos.18 and 23 in Chawl No.1 and Room

Nos.2, 3, 22, 26 to 24 in Chawl no.2. Applicant also undertake to hand over 5 electric meters to the complainant and to provide water supply. They undertake to hand over vacant and peaceful possession of the balance land which is not developed as per the agreement dated 2nd May, 2017.

5 The consent terms were executed between the parties on 26th March, 2021. The consent terms are taken on record. Both the sides have confirmed that the dispute has been settled. Consent terms are complied. Suit is withdrawn. In view of the consent terms, the complainant has no objection for allowing application for anticipatory bail. Both the parties also have agreed that the proceedings would be initiated for quashing the FIR and the complainant would give consent for quashing the said proceedings. In terms of consent terms, this application may be allowed.

6 In view of the above, the application can be allowed:

:: O R D E R ::

- (i) Anticipatory Bail Application No.434 of 2021, is allowed;
- (ii) In the event of arrest of applicants in connection

with C.R.No.21 of 2021, registered with Dombivli Police Station, District-Thane, the applicants be released on bail on executing PR bond in the sum of Rs.25,000/-, each, with one or more sureties in the like amount;

- (iii) Anticipatory Bail Application No.434 of 2021, stands disposed of accordingly;
- (iv) Interim Application No.705 of 2021, is disposed of.

(PRAKASH D. NAIK, J.)