

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

ANTICIPATORY BAIL APPLICATION NO. 785 OF 2021

1. Rashmikanth Maganlal Gangar
2. Kaushik Prabhakar Raut ... Applicants

Versus

The State of Maharashtra ... Respondent

.....

Mr. Mahesh Vishwarkarma i/b. Vishwakarma And Associates,
Advocate for the Applicants.

Ms. M. R. Tidke, APP for the Respondent – State.

.....

CORAM : PRAKASH D. NAIK, J.

DATE : 23rd MARCH, 2021

PER COURT:

1. This is an application for anticipatory bail in C.R. No. 51 of 2021 registered with Rabale MIDC Police Station, Navi Mumbai for offences under Sections 452, 448, 143, 323, 504, 147, 506, 149 of Indian Penal Code (for short “IPC”). The First Information Report (for short “FIR”) was registered on 23rd February, 2021.

2. The case of the complainant is that informant is carrying business of construction and development in the name and style of ‘Kamal Ganga Enterprises’. On 4th October, 2013, applicants called the informant and informed him that he has been allotted a plot at T.T.C. Industrial area, Navi Mumbai and he intends to construct a factory building on said plot. The informant entered into work order

with Om Surgical for construction of factory cum office. The applicant No.1 handed over possession of plot to the informant. The informant constructed a wall compound on the boundaries of plot and in order to protect construction machines and other instruments the informant appointed Mr. Tergul Mandal as security guard. On 30th October, 2016 informant given letter to the extent of 1 FSI for commencing building. The expenses estimated to be 3,11,00,000/-. The applicants paid 2 Crores. On 28th August, 2018 applicant decided to make further addition of FSI. Total expenses escalated. Applicant No.1 was supposed to pay 1,10,00,000/- to informant and other expenses. He avoided, cheques issued were dishonoured. On 22nd February, 2021 applicants assaulted security guards. Two women entered the plot.

3. The contention of the applicants is that the FIR is false. Applicants had pointed out discrepancies in the construction. The employment was given construction rights which were subject to termination. Contract of construction was terminated by M/s. Om Surgical due to delay. The inspection of construction was conducted by architects and it was found in appropriate and poor quality. Prior to registration of FIR, the applicant No.1 had lodged the complaint with the Police Station against the complainant. In the said complaint it was mentioned that, Milind Tanksale has been

appointed as construction director for the project situated at Airoli. Over the period of time, it was learnt that the cost was high. His behavior was not good. He was threatening the staff and other contractors. With the aid of workers and security guard, he threatened the applicant No.1 and others that he would not handover the site, if the work is not allotted to him.

4. Learned counsel for the applicants submitted that in pursuant to the said complaint, the complainant had visited the Police Station and assured that he would not indulge in such activities in future. It is further submitted that except Section 452 of Cr.P.C, all other offences are bailable. Section 452 is not attracted in this case. The applicant had appointed new contractor which is evident from the documents on record.

5. Learned APP submitted that the specific role has been attributed to the applicants. Some of the associates of the applicants were ladies. They were arrested and granted bail.

6. The applicant No.2 is employee of applicant No.1. The applicant No.1 was allotted plots bearing Nos.B-34 & B-35 at Navi Mumbai. The informant was requested to come for meeting. The construction was required to be completed. Written order was given the complainant for conducting his business in the name of

Kamalganga Enterprises. The estimated expenses incurred for constructing the structure was mentioned as Rs. 3 Crores, 11 Lakhs. Construction was carried out. However, after noticing the conduct of the complainant, it was decided to terminate his contract and according to applicant No.1 another contractor was engaged. Considering the factual aspects as stated above, the applicants need not be subjected to custodial interrogation. Hence, I pass the following order: -

ORDER

- (i) Anticipatory Bail Application No. 785 of 2021 is allowed;
- (ii) In the event of arrest of the applicants in connection with in C.R. No. 51 of 2021 registered with Rabale MIDC Police Station, Navi Mumbai, the applicants be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;
- (iii) The applicants shall attend the investigating officer on 5th, 6th & 7th April, 2021 between 11.00 a.m. to 1.00 noon and thereafter as and when called for till filing of charge-sheet.
- (iv) The applicants shall not tamper with the evidence.
- (v) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)