

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2308 OF 2019**

Suresh Shalik Mhatre] Applicant

V_S .

The State of Maharashtra] Respondent

 a/w

INTERIM APPLICATION NO.1071 OF 2021

IN

ANTICIPATORY BAIL APPLICATION NO.2308 OF 2019

Shalini Madhukar Raul] Intervener/Applicant

IN THE MATTER OF:

Suresh Shalik Mhatre] Applicant

Vs.

The State of Maharashtra] Respondent

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Mr. Gulabrao Awasarmol i/b Anand Awasarmol, for Applicant.

Mr. Mahendra Agavekar, a/w Ms. Shraddha Chavan, for Intervener.

Mr. H.J Dedhia, APP, for Respondent-State.

Mr. Jondhale, P.S.I, Naupada Police Station.

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CORAM: PRITHVIRAJ K. CHAVAN, J.

DATE: 20th NOVEMBER, 2021.

P.C.

Heard Mr. Awasarmol, learned Counsel for the applicant, Mr. Mahendra Agavekar, learned Counsel for the intervener and Mr. Dedhia, learned A.P.P for the Respondent-State.

2. By an order dated 18th October, 2019 i.e almost two years back, by way of interim relief the applicant was protected by this Court in C.R. No.166 of 2019 registered with Naupada Police Station, Thane for the alleged offences punishable under Sections 420, 465, 467, 468, 470, 471 of the Indian Penal Code and under sections 3, 11 & 13 of the Maharashtra Ownership Flats Act (for short 'MOFA'). It has been observed that though *prima facie* the dispute was of civil in nature, offences came to be registered and, therefore, this Court granted interim protection to the applicant.

3. The interim relief came to be continued from time to time and on 18th March, 2021, application for intervention came to be filed.

4. On 4th September, 2021, after having heard the respective sides, this Court extended interim protection granted to the applicant till 4th October, 2021. Though it has been observed by the learned Additional Sessions Judge that there were earlier instances of similar nature against the applicant, according to the learned Counsel for the applicant *sans* any documentary evidence, such observations made by the learned Additional Sessions Judge are nothing but surmises and conjectures.

5. Today, Mr. Dedhia, learned A.P.P submits that custodial interrogation of the applicant is required. Astonishingly, on 30th October, 2021 another A.P.P who appeared in the matter namely Mr. Amit Palkar made a categorical statement across the bar that charge-sheet would be filed within 15 days. He made this statement on the basis of the instructions which he received from one Ms. Nirmala Trimbak Rakh, P.S.I.

6. Today, Mr. Dedhia, the learned A.P.P, however, could not explain as to why the said Investigating Officer is absent today and why such statement was made making the Court believe that a charge-sheet would be filed within 15 days. Liberty of the citizens cannot be curtailed and criminal proceedings should not be a hanging sword without any justifiable reason. Such conduct of the Investigating Officer is deprecated.

7. A specific statement has been made on 30th October, 2021 that the Investigating Officer does not require custodial interrogation of the accused which was accepted by this Court. As a matter of fact, there is breach of the undertaking by the Investigating Officer which she made before this Court on the last date. She could have been dealt with, accordingly. However, I restrain myself from initiating any further action against Nirmala Trimbak Rakh for making such statement and remaining absent today. Be that as it may.

8. Interim relief granted to the applicant shall stand confirmed on the same conditions.

9. Application stands disposed of.

10 In view of disposal of the application, Interim Application No.1071 of 2021 stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]