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

ANTICIPATORY BAIL APPLICATION NO. 708 OF 2018

Dhanaji Namdev Mhatre and anr.Applicants
Vs.
The State of Maharashtra Respondent

Mr.Rajendra B. Mokashi, for the Applicants.
Mr.N.B. Patil, APP for the Respondent - State.
Mr.Atul S. Adurkar - Asst. PI, Chunabhatti Police Station is present.

CORAM : M. S.KARNIK, J.

DATE : 31st JULY, 2021

P.C. :

. Heard learned Counsel for the Applicants. The FIR is dated 13/06/2017. The Complainant - Devidas Mhatre is a member of the Society called as 'Indraprastha Co-operative Housing Society'. It is alleged that the Applicant No.1 being an erstwhile Secretary of the Indraprastha Co-operative Housing Society, misused the letterhead of the Society and gave No Objection Certificate (for short 'NOC') to the allottees, who in turn secured allotment of flats in the said Society under the Slum Rehabilitation Scheme. It is the case of the complainant that

neither Mahadev Baikar nor Ashok Mhatre were the members of the Indraprastha Co-operative Housing Society but were the members of the Shivprerna Co-operative Housing Society. The complainant therefore alleged that it is only on the strength of the NOC granted by the Applicant No.1 who was the erstwhile Secretary of Indraprastha Co-operative Housing Society, SRA had issued allotment in favour of Mahananda Baikar (widow of Mahadev) and Rukmani Mhatre (widow of Ashok) in the Indraprastha Co-operative Housing Society. The NOC was issued by Applicant No.1 on the letterhead of the Society, though he was not authorised to do so. This NOC aided Manananda Baikar and Rukmani Mhatre to secure the allotment in Indraprastha Co-operative Housing Society, though deceased Mahadev & Ashok were never members of the Indraprastha Co-operative Housing Society.

2. The complainant alleges that the Applicant No.1 had ceased to be the Secretary of the Society despite which the NOC was issued. Applicant No.1 claims that resolution was passed on 04/10/2009 by the General Body of Indraprastha Co-operative Housing Society, that in the event, the present managing committee is not functioning properly, then even the erstwhile Secretary (viz. Applicant No.1) will have the power to issue such

NOC. Learned Counsel for the Applicant No.1 submitted that the NOC was based on the General Body Resolution authorising the erstwhile Secretary to issue such NOC.

3. Applicant No.1 has admitted his signature on the letterhead and further admits that the NOC was issued by him which was on the strength of the General Body Resolution dated 04/10/2009. Applicant No.1 has also admitted to have signed on the letterhead dated 11/07/2016 of the Indraprastha Co-operative Housing Society which is a NOC for recording the name of Ms. Mahananda Baikar and Ms.Rukimani Mhatre as legal heirs of the members of the Society viz. Mahadev Baikar and Ashok Mhatre. There is no dispute that the allotment of SRA flat has been issued on the basis of the said NOC.

4. Learned APP opposed the Application contending that Applicant No.1 misused the letterhead of the Society though he was not authorised to do so which eventually aided the allottees in securing the allotment and thus, the Applicants have committed offence punishable under sections 420, 465, 468, 471 & 34 of Indian Penal Code.

5. Having heard learned Counsel for the Applicants and learned APP, I am of the opinion that this is a fit case for granting pre-arrest bail to the Applicants as custodial interrogation in the present case is not necessary. All the documents which form the basis of the allotment by SRA in favour of allottees are with the Investigating Officer. Applicant No.1 has admitted to have signed and issued the NOC which forms the basis of the allotment. The Applicant claims that this was on the basis of the General Body Resolution of the said Society dated 04/10/2009 authorising the erstwhile Secretary to issue NOC in certain circumstances. Considering that the documents are already in custody of Investigating Officer, the custodial interrogation is not required and hence, the Applicants are entitled to pre-arrest bail. Applicant No.2 is an employee working with the Developer. The main allegations are against the Applicant No.1. The allegation against Applicant No.2 is that on the basis of the NOCs issued by Applicant No.1, Applicant No.2 had further processed the formalities regarding the allotment in favour of the allottees. Furthermore, the applicants are protected by interim order passed by this Court on 11/04/2018 and they were directed to report Investigating Officer on 18/04/2018. Thus, the interim protection is operating for more than 3 years now. Hence, the following order.

ORDER

- (i) Application is allowed.
- (ii) The interim order dated 11/04/2018 stands confirmed.
- (iii) In the event of arrest, the Applicants be enlarged on bail, on executing PR Bond in the sum of Rs.20,000/- each with one or two sureties in the like amount.
- (iv) The Applicants shall report to the Investigating Officer of the concerned police station once every Thursday commencing from 05/08/2021 between the period from 10.00 a.m. to 12.00 noon, initially for a period of 4 weeks and thereafter as and when called by the Investigating Officer.
- (v) The Applicants to co-operate with the Investigating Officer.

6. Application is disposed of.

(M.S.KARNIK, J.)