

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 1251/2021**

Nasir Kasam Khan

.....Applicant**V/s.**

State of Maharashtra
Through the Senior Inspector
of Police, Vinoba Bhave
Nagar Police Station,
Kurla (West), Mumbai-400 070.

....Respondent

* * * *

Mr. Altaf Khan i/by. Mr. Moin Khan, Advocate for the
applicant.

Mr. H.J. Dedia, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Thursday, 12th August, 2021.

P.C. :

1. Heard learned Counsel for the applicant and
learned APP for State.

2. Apprehending arrest in connection with Crime No.38/2021 registered with Vinoba Bhave Nagar Police Station, Kurla (West), Mumbai for the offences punishable under Sections 420, 419, 465, 468 read with Section 34 of the Indian Penal Code, the applicant seeks pre-arrest bail.

3. Complainant, Wasim Salim Shaikh is the owner of Flat No.E-1205, Remix Residency, E-Wing, Kurla (West), Mumbai-400 070. This residency has ten wings. Accused no.1-Afaq Hussain Shaikh is the Manager of this Residency. Complainant vide, leave and license agreement dated 1st October, 2020 inducted Mr. Fahad Hussain, as a licensee in Flat No.1205, Remix Residency, E-Wing, Kurla (West), Mumbai-400 070 for a period of 22 months. This licensee is the brother of accused no.1. The applicant before me, claims that, he is the employee of accused no.1. It is prosecution's case that, the applicant impersonating the complainant, executed a leave and license agreement on 10th October, 2020 and inducted Mr. Muzammil V. Shaikh and another as a licensee in Flat No. 1205/E Wing for a period of 24 months. Vide said leave and license agreement, Muzammil deposited Rs.40,00,000/- with the applicant as a security deposit and agreed to pay Rs.1/- only per month. The registered agreement dated 10th

October, 2020, shows, the applicant projected himself to be the owner of Flat No.1205/E-Wing, Infact, complainant is the owner of this flat. Thus, when complainant came to know that Muzammil is occupying the flat, he made necessary enquiries and thereafter filed FIR against the applicant, his employer Afaq Hussain Shaikh and others. The primary evidence on record in the form of Leave and License Agreement dated 10th October, 2020 executed by the applicant is 'false document' within the meaning of Section 464 of the Indian Penal Code of which applicant is author. Allegations against the applicant and evidence on record apparently satisfy the ingredients of forgery of valuable security and cheating. It may be stated that the applicant-accused no.1 is absconding and it is reported that, accused no.1 has indulged into similar acts in the past. Be that as it may, learned Counsel for the applicant would submit that, he executed the leave and license agreement and inducted Muzammil Shaikh in the Flat No.1205/E-Wing at the behest of accused no.2 in compelling circumstances. In support of his contention, the learned Counsel would submit that, he has also moved against accused no.1 seeking directions under Section 156(3) of the Criminal Procedure Code. Be that as it may, the allegations and the material on record, *prima-facie*

suggest and indicates applicant's complicity in the crime. In consideration of the facts of the case and for the reasons stated above, custodial interrogation of the applicant is necessary to unearth true and correct facts. For the reasons stated above, the application is rejected.

4. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of rejecting bail only and the same shall not, in any way, influence the trial in other proceedings.

NEETA
SHAILESH
SAWANT

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2021.08.12
19:18:13
+0530

(SANDEEP K. SHINDE, J.)