

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

ANTICIPATORY BAIL APPLICATION NO.1378 OF 2021

Mr. Suhash Ramchandra Surve .. Applicant

Vs.

The State Of Maharashtra .. Respondent

Mr.Ashok M. Saraogi, Advocate for Applicant.

Ms. Anamika Malhotra, A.P.P. for the State-Respondent.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th JUNE, 2021

PC.

1. This is an application for anticipatory bail in connection with C.R. No. 92 of 2021 registered with Pantnagar Police Station, Ghatkopar for the offences punishable under Sections 324, 141, 142, 143, 147, 148, 448, 452, 427 of Indian Penal Code (for short "IPC").

2. The complainant has alleged that on 02.03.2021, the applicant and others visited the spot of incident with JCB and without authority demolished hut No.88 belonging to complainant.

3. Applicant preferred application under Section 438 of Cr.P.C. before Sessions Court, which has been rejected by order dated 25.05.2021.

4. The learned advocate for the applicant submits that the applicant works in a liasoning portfolio related to construction and co-ordination with authorities. The redevelopment was carried out on CTS No.190/1 to 190/8 and 190/9 at Village

Ghatkopar. Annexure II was prepared in respect of existing huts on said property. There was dispute between Dharamvir Chand Hatwal and Smt.Pooja Desai in respect of premises. Complaint filed private criminal complaint against Smt. Pooja Desai and investigation was ordered under Section 156(3) Cr.P.C. After investigation B summary report was submitted. The predecessor of complainant sold premises to Smt. Pooja Desai. MHADA had issued letter dated 23.02.2010 stating that premises of Rajesh Chandra Hatwal is demolished by concerned department. The hut in question was belonging to Chandrasingh Hatwal and he had been accepted as member of society. Alternate premises allotted to Chandrasingh Hatwal. Since premises was sold to Pooja Desai, possession of alternate premises is taken by her by letter dated 03.03.2021 and applicant is not concerned with allotment. On allotment of permanent alternate premises in favour of Pooja Desai, she handed over remaining portion, which has been demolished. The date for possession was fixed on 03.03.2021 and prior to that portion was demolished and purposely FIR was lodged on 02.03.2021.

5. Learned APP submitted that incident had occurred. Statement of the complainant and the witness support the case of the prosecution. The applicant had no authority to carry out demolition.

6. Except offence under Section 452 of IPC all other offences are bailable. There is serious dispute about existence of hut

and right of complainant. Applicability of Section 452 of IPC is debatable. Applicant is not concerned with allotment of accommodation. Looking into nature of dispute, custodial interrogation of the applicant is not necessary. He can be directed to appear before the Investigation officer and co-operate with the investigation officer.

:: O R D E R ::

- (i) Anticipatory Bail Application No.1378 of 2021, is allowed;
- (ii) In the event of arrest of the applicant in connection with C.R. No. 92 of 2021 registered with Panth Nagar Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) The applicant shall appear before the investigating officer on 24th 25 and 28th June 2021 between 11.00 a.m. to 01.00 p.m. and thereafter as and when called for, till filing of charge sheet.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)