

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

ANTICIPATORY BAIL APPLICATION NO.1175 OF 2020

Sanjay Ramchandra Kadam Applicant

versus

State of Maharashtra Respondent

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- Mr.Viral Rathod i/b. Bimala Chounal, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- IO – PSI Anand Shinde, Kherwadi Police Station, Mumbai, Present.

CORAM : SARANG V. KOTWAL, J.
DATE : 08th JANUARY 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.167/2019 registered with Kherwadi Police Station, under sections 409 of the Indian Penal Code.
2. The FIR is lodged by one Rajaram Andhale, who was employed with Public Works Department and was looking after government colony at Bandra (E) as manager. The FIR mentions

that on the basis of an anonymous letter, enquiry was conducted and it was found that in Building No.9/1541 one unauthorized person was residing who was neither a public servant nor assigned that particular room. Further enquiries revealed that the said room was allotted to the present Applicant in the year 2005, but he had given it to one Vilas Yamunappa Sonawane and his family. The enquiry further revealed that he used to pay certain amount to the Applicant. Thus offence was committed by the Applicant and therefore the FIR was lodged.

3. Heard Mr.Viral Rathod, learned counsel for the Applicant and Mr.S.H. Yadav, learned APP for the State.
4. The learned counsel for the Applicant relied on the medical papers of the present Applicant. He submitted that the Applicant is suffering from serious kidney ailment and also from heart disease, which is indicated on page No.29 of the compilation. This investigation was done in 2019 and since then his condition is deteriorating. He submitted that though at this stage it is difficult to refute the allegations, the only question

which seriously should be considered by this Court is whether the Applicant's custodial interrogation is necessary. The Applicant had inducted his relative only on humanitarian ground, because he was told by the relative that his mother needed medical help from the locality and he was not financially sound.

5. The learned counsel for the Applicant also relied on the order dated 07/01/2020 passed by the competent authority directing the Applicant to pay Rs.1,68,053/- by way of penalty. He submitted that the government is sufficiently compensated by this order. The Applicant is bound to pay that amount; failing which, the government has sufficient powers to recover it. He submitted that considering his health, the Applicant may be protected by an order of anticipatory bail.

6. Learned APP opposed this application and submitted that the offence is serious and if ignored, the others may follow this course.

7. Reasoning -:

The offence undoubtedly is serious, but I am considering whether his custodial interrogation in this particular case is necessary in the background of the serious ailments suffered by the Applicant. As pointed out, the Applicant is suffering from disease affecting his kidney and heart. The medical papers annexed to this application support this contention. The record of the case including documents of the rooms are with the investigating agency. Therefore custodial interrogation of the Applicant will not yield anything further. Therefore in the peculiar facts of the case and mainly on the humanitarian ground, I am inclined to protect the Applicant by order of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.167/2019 registered with Kherwadi

Police Station, Police Station, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)