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

ANTICIPATORY BAIL APPLICATION NO. 1647 OF 2019

KUMAR HARISHCHANDRA KAKDEAPPLICANT

V/s.

THE STATE OF MAHARASHTRARESPONDENT

**WITH
CRIMINAL APPLICATION NO. 1222 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO. 1647 OF 2019**

SHEKHAR HARISHCHANDRA JADHAVAPPLICANT

IN THE MATTER BETWEEN

KUMAR HARISHCHANDRA KAKDEAPPLICANT

V/s.

THE STATE OF MAHARASHTRARESPONDENT

Mr. Manoj Mohite Senior Advocate i/b Mr. Veerdhaval Kakade for the applicant

Mr. Vaibhav Karnik for intervenor

Ms. Sharmila S. Kaushik APP for the State

CORAM : NITIN W. SAMBRE, J.

DATE: AUGUST 11, 2021.

P.C.:

1] Heard Shri. Mohite, learned senior counsel appearing for the

applicant who is seeking pre-arrest bail in C.R. No. 142/2019 registered with Vasai Police Station for Offences punishable under Sections 384, 385 and 388 of the Indian Penal Code.

2] Prosecution case against the applicant is, complainant's brother namely Arun is in real estate business. Applicant, so-called social activist so also activist under Right to Information, with his aids collected the documents of illegal construction and based on same, used to blackmail parties like the complainant, his brothers. It is claimed that under such threats from the applicant, brother of the complainant namely Arun has parted with amount of around Rs. 30 Lakhs. There is CCTV /audio recording of the same in the presence of a mediator one Ms. Tai and that being so, applicant is prima facie shown to be involved in the crime in question.

3] Mr. Mohite, learned senior counsel for the applicant would invite my attention to a detailed order passed by this Court on 26/07/2019 granting ad-interim protection to the applicant. According to him, survey no. 99 area .32.3 Hectar is owned by the

family of the applicant over which Arun carried out illegal construction. Said construction is claimed to have been based on certain forged permission obtained from CIDCO authority which has resulted into registration of crime no. I-31/2016 punishable under sections 420, 465, 467, 468 and 471 of the Indian Penal Code. It is further claimed that amount of Rs. 30 Lakhs as has been alleged to have been received by the applicant is duly acknowledged as has been alleged but it is explained that said amount was accepted towards settlement of claim in the matter of development of aforesaid immovable property. Mr. Mohite would urge that there is balance consideration which is yet to be received from the complainant and his brother and overcome the same financial liability, false complaint is filed.

4] Learned APP while opposing the aforesaid claim would urge that there is sufficient material to infer that the applicant has involved himself in an act of extortion. She would draw support from the statement of said Ms. Tai and the transcript of the CCTV footage as are seized. According to her, there is sufficient material to infer the

involvement of the applicant in the crime in question.

5] It can be inferred from the record i.e. 7/12 extract that applicant and his family members are owners of land survey no. 99 area .32.3 Hecter over which brother of the complainant Arun has carried out certain illegal development. An offence being crime no. I-31/2016 referred supra came to be registered at the behest of Assistant Commissioner, Vasai-Virar Municipal Corporation in connection with the development permissions forged by the said Arun.

6] Prosecution has failed to demonstrate as to the fact that title of the said property stood vested with Arun or the complainant and as such authorised to carry out development. Rather the case of the applicant appears to be strengthened with the fact that applicant has acknowledged receipt of amount of Rs. 30 Lakhs as has been alleged and the registration of crime no. I-31/2016 against Arun at the behest of local planning authority.

7] Statement of eye witness to the incident i.e. Ms. Tai supports the case of the applicant. There are no criminal antecedents against the applicant. Applicant is enjoying ad-interim protection since 26/07/2019. That being so, interim protection stands confirmed.

Application stands disposed of with following conditions:

(i) In the event of arrest in C.R. 142/2019 registered with Vasai Police Station, 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.

(ii) Applicant shall attend the Investigating Officer from 26/08/2021 to 31/08/2021 between 10.00 a.m. to 12.00 noon and thereafter as and when directed.

(iii) Applicant shall not influence the witnesses or tamper with evidence in any manner.

8] Intervention application also stands disposed of.

[NITIN W. SAMBRE, J.]