

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

ANTICIPATORY BAIL APPLICATION NO.799 OF 2021

Mr. Santosh M. Tiwari
& Another .. Applicants.
v/s.
The State of Maharashtra .. Respondent.

Mr. Ashutosh R. Gole, for the Applicants.
Mr. M. G. Patil, APP for the Respondent-State.

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CORAM: SARANG V. KOTWAL, J.
DATED : 5th JANUARY, 2022.
(THROUGH VIDEO CONFERENCING)

PC:-

The Applicants are seeking anticipatory bail in connection with CR No.1177 of 2019 dated 15th November, 2019 registered with Waliv Police Station, Palghar under Sections 52, 53 and 54 of the Maharashtra Regional Town Planning Act, (MRTP) Act, 1966.

2 Heard Mr. Gole, learned Counsel for the Appellants and Mr. Patil, learned APP for the Respondent-State.

3 The FIR is lodged by Prashant Choudhary who was working as In-charge Assistant Commissioner with Vasai Virar Municipal Corporation. Their department received a report that there was an unauthorized construction in Grand Residency and Udipi Krishna Hotel in village Gokhiware, District Palghar.

4 As per the report, notice was issued to land owner- Deepak

Shah under the provisions of the Maharashtra Regional Town Planning Act (MRTP). However, the unauthorized construction was not removed. The learned Counsel for the Applicant submitted that he is a developer of the project. He is neither owner nor occupier. He had retained his interest in the property and had given it on Leave and License to one Mr. Shetty who is occupying the premises. The leave and license agreement was executed on 31st October, 2018 and thereafter, occupier Shetty had carried out this unauthorized construction. The learned Counsel submitted that in leave and license agreement, also there is a clause that licensee would be responsible for any violation of law. He submitted that licensee himself is granted anticipatory bail. The licensee had approached the competent Civil Court and obtained stay on execution of the notice of the demolition of the structure. Learned Counsel therefore, submitted that since the licensee is granted anticipatory bail, there is no reason to deny the same to the present Applicant.

5 Learned APP opposed this application. He submitted that Applicant is a developer and, therefore, he cannot shirk his responsibility of having carried out his unauthorized construction.

6 I have considered these submissions. The licensee has approached the Civil Court and has obtained stay. In any case, till it is decided, the construction cannot be demolished. The licensee is already granted anticipatory bail. There is a possibility that licensee has carried out illegal construction because notice was issued in the year 2019 and the license was executed on 31st October, 2018. In the back-ground of this, the custodial interrogation of the Applicant is not necessary.

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Hence, the following order:-

- (i) In the event of there arrest in connection with C.R. No.1177 of 2019 registered with Waliv Police Station, Palghar, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicant shall attend the concerned Police Station as and when called and shall co-operate with the Investigating Agency.
- (ii) The Application stands disposed of accordingly.

(SARANG V. KOTWAL,J.)