

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

ANTICIPATORY BAIL APPLICATION NO. 1042 OF 2022

Clarence G. D'Silva ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. Anurag Ghag a/w. Sunita Nego for the Applicant.
Mr. N.B.Patil, APP for the State.

**CORAM : ANUJA PRABHUDESSAI,J.
DATED : 26th APRIL, 2022.**

P.C.

1. This is an application under Section 438 Cr.P.C. for pre-arrest bail in C.R.No.148 of 2022 registered with Bhayander (West) Police Station for offence under Section 420 of Indian Penal Code.
2. Heard Mr. Ghag, learned Counsel for the Applicant and Mr. Patil, learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .
3. The aforesaid crime was registered pursuant to the FIR lodged by one Sherman Mohan George. A perusal of the FIR prima facie reveals that Bhayander Education Trust, owns five shops at Badrinath CHS Ltd. being shop no.B-1, 2, 3, 4 and 5. The trust was initially running a school in the said shop/premises. Subsequently, the school was shifted to a new building and the shops were closed. The trust used to pay the maintenance of the shops. The trust authorized one of the staff member

Smt. Ranjana Verma to reside in one of the shops. In April, 2021 the Applicant instructed the said staff member to vacate the premises. Upon inquiries, it was revealed that the Applicant herein has taken possession of the said shops and given the same on rent, and that he has been collecting rent from the said lessees.

4. Learned Counsel for the Applicant submits that the premises were leased in view of the oral understanding between the Applicant and the father of the Complainant. It is to be noted that the premises do not belong to the Complainant and his father and that the father of the Complainant had no authority to allow any person to lease the premises of the trust. Even otherwise, there is no prima facie material to indicate that there was any such oral agreement or understanding. The statements of the witnesses prima facie reveal that the Applicant has collected rent to the tune of Rs.32,00,000/- from the tenants/ lessees in respect of the premises which belongs to the trust, and that he has misappropriated the said rent.

5. Considering the nature of the accusation, and the material in support thereof, in my considered view, the Applicant is not entitled for pre-arrest bail. Hence the Application is dismissed.

PRASANNA P
SALGAONKAR

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(ANUJA PRABHUDESSAI, J.)