

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

ANTICIPATORY BAIL APPLICATION NO. 1067 OF 2022

1) Mr. Gulam Hazrat Ali Shah Mohammed Khan	
2) Mr. Arif Gulam Hazrat Ali Khan	 Applicants
v/s.	
The State of Maharashtra	 Respondent

Mr. M.M. Kocharekar a/w. Ms. Sofiya Shaikh i/b.
Sufian Qureshi for the Applicant.
Mr. N.B. Patil, APP for the State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 02nd MAY, 2022.

P. C. :-

. This is an Application under section 438 of Cr.P.C. for pre-arrest bail in C.R.No.69/2022 registered with Kurla Police Station, Mumbai for offences punishable under sections 323, 341, 452, 506 r/w. 34 of the Indian Penal Code.

2. Heard Mr. M.M. Kocharekar, learned counsel for the Applicants and Mr. N.B. 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 First

Information Report (FIR) lodged by one Abdull Sattar P.K. The FIR prima facie reveals that the Applicants herein are the owners of the Hotel – Pearl View at L.B.S. Marg, Indra Nagar, Kurla (W), Mumbai. The Applicants had allowed the complainant to run the said hotel. It appears that the Applicants had issued notice to the complainant terminating the agreement and to handover peaceful possession of the hotel. The complainant filed a suit before City Civil Court, Bombay being L.C. Suit No.510/2022 seeking to restrain the Applicants from dispossessing the complainant from the said hotel. The complainant has alleged that on 07/03/2022, the Applicant and others forcibly entered the hotel premises, damaged some of the items in the hotel premises and assaulted his employees. It is pertinent to note that in the praecipe dated 18/03/2022 filed before the City Civil Court, Mumbai, the complainant had alleged that he was dispossessed on 08/03/2022. The learned Judge held that the Court had no jurisdiction to try the suit and they returned the plaint for presenting the same before the appropriate Court. On the same date, the complainant had lodged the complaint alleging that he was forcibly dispossessed on 07/03/2022.

4. Be that as it may, the question whether the complainant had

surrendered the possession or whether the Applicants had taken forcible possession, will have to be decided on merits of the matter. Even otherwise, prima facie, essential ingredients of section 452 of IPC which is the only non bailable offence are not made out. Under the circumstances, no case is made out for custodial interrogation. Hence, the Application is allowed on following terms and conditions :-

(a) In the event of arrest of the Applicants in C.R.No.69/2022 registered with Kurla Police Station, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall report to the Investigating Officer for two days from 05/05/2022 between 11:00 a.m. to 02:00 p.m.

(c) The Applicants shall not interfere with the complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the

case in any manner ;

(d) The Applicants shall keep the Investigating Officer informed of their current address and mobile contact numbers, and/or change of residence or mobile details, if any, from time to time.

5. The Application stands disposed of.

**PREETI
H JAYANI**

(SMT. ANUJA PRABHUDESSAI, J.)

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PREETI H JAYANI
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