

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

**ANTICIPATORY BAIL APPLICATION NO.2170 of 2022
WITH
ANTICIPATORY BAIL APPLICATION NO. 2172 OF 2022**

Akash Harsha Gharat	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

...

Mrs.Anjali Patil for the applicant in both applications.
Mr.S.V.Gavand and Ms.Veera Shinde, APP for the State.

**CORAM: BHARATI DANGRE, J.
DATED : 12th SEPTEMBER, 2022**

P.C:-

1 On 11/8/2022, the applicant was granted protection from arrest in connection with C.R.No. 280/2021 and C.R.No. 284/2021 which invoke Sections 420, 465, 467, 468, 471 of IPC and Sections 52, 53 and 54 of the Maharashtra Regional Town Planning Act, 1960.

It was specifically observed in the order protecting the applicant that the events are spread over for a period more than a decade, and the allegation which the applicant face, is that the

Occupation Certificate of the Corporation was forged, and even the permission for construction which is alleged to have been granted in the year 2013, is not on record.

2 The learned APP do not dispute that the applicant has reported to the police station as directed, but the submission is he has not co-operated. What is understood by the term 'co-operation' is not very clear, as the learned APP vehemently submit that the custodial interrogation is necessary as the applicant is benefited out of the project.

3 Perusal of the complaint and the documents placed on record by the learned counsel applicant would reveal that the original owner of the subject land transferred it in favour of the applicant, but subsequently through various development agreements, the project changed hands and in fact, the construction was carried out by one Nitin Ubale.

The applicant is not the one who has disposed off the tenements in the Mahalaxmi Apartments.

4 In any case, when the learned APP is asked that if two buildings come up in the jurisdiction of Virar Municipal Corporation, which according to the Corporation, are unauthorized, and despite the fact that electricity as well as water connection are made available to the said buildings, what steps have been taken by the Corporation either to erase the building, when they were declared to be unauthorized and if there is failure

on part of the Planning Authorities to take the steps, why none of the officials, in whose jurisdiction such buildings are constructed are made accountable, the learned APP or the Investigating Officer is not in a position to offer any reply.

5 The Addl. Sessions Judge, Vasai had rejected the Anticipatory Bail Application, by recording the finding that unauthorized construction is a serious malady that is affecting many cities and it has created a hazardous situation to the lives of the occupants.

The learned Judge has failed to consider that it is right under the nose of the various Officers, who take hefty salaries from the Corporation, the buildings have come up but they are not bothered about the land being exposed to such constructions, to the benefit of various developers and builders and the ultimate sufferer is the poor person who invest his money in the hope that he will, have his own dream home in this sky scrapers which he is unaware, are unauthorized. The entire system has to deal with this malady and merely the applicant who is accused of entering into the transaction with the owner of the land will not offer any solution. His custodial interrogation in my considered opinion, is unwarranted as all the subsequent agreements are on record, and it can be discerned that it is not the applicant who has carried out the constructions as far as ascertaining as to who has created the disputed document, his specimen signatures and thumb impressions can be collected and

a strenuous exercise shall be carried out by the Investigating Officer to nab the real persons who are guilty of forging this document.

6 In the wake of the above, the interim protection granted by this Court is made absolute.

Needless to state that the applicant shall continue to render his co-operation in the investigation.

(SMT. BHARATI DANGRE, J.)