

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

ANTICIPATORY BAIL APPLICATION NO.2891 OF 2021

1. Mohammed Ahmed Mukhtar Ahmed Kha
2. Naaz Golandaz @ Naaz Mohd. Ahmed Khan,&
3. Nawab Mukhtar Khan Applicants
Versus
The State of Maharashtra Respondent

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WITH
INTERIM APPLICATION NO.43 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.2891 OF 2021

Mr. R.D. Suryawanshi, Advocate for the Applicants.
Mr. Ajay Patil, APP for the Respondent-State.
Mr. Rizwan Khan, Advocate i/b. Azimuddin Niyazuddin Kazi,
for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R.No.979/0221 registered at Mumbra Police Station, District-Thane on 8.10.2021 under Sections 384, 385, 420, 143, 149, 188 of the Indian Penal Code and under Section 37(3) and 135 of the Maharashtra Police Act.

2. Heard Shri R.D. Suryawanshi, learned counsel for the applicants, Shri Ajay Patil, learned APP for the State and Mr. Rizwan Khan, learned counsel for the Intervenor.

3. The FIR is lodged by one Abdul Mannan Shamim Ahmad Khan. He has stated that he has a shop at Kausa Mumbra, District-Thane. There is a five feet high wall leading from Orchard complex to Khadi Machine Road. The road widening work was going on in that area but the wall stood there. It was not removed. The people from the locality were of the opinion that if that wall was removed the shopkeepers will be benefited. The FIR mentions that all the applicants and other associates used to mobilize opinions of the shopkeepers for removing that wall. On 6.10.2021, applicant No.1 and two others met the first informant in presence of one Javed Shaikh and the informant was told that for removing that wall they were collecting Rs.20,000/- each. The informant paid him Rs.20,000/-. It was accepted by one Yaser Bagdadi. It is further his case that he was told that, in all the entire expenses would be Rs.2 Lakhs per person and they almost forced the informant to pay that amount. The

informant refused to make that payment. On 7.10.2021, when he came back from Mumbai he saw that the wall was removed. According to the informant the wall was removed without taking permission from the Municipal Corporation and, therefore, this FIR is lodged.

4. Learned counsel for the applicants submitted that just before registration of this FIR, applicant No.2 had lodged her own FIR vide C.R. No.976/2021 at Mumbra police station on 8.10.2021 at about 2.12 a.m. alleging outraging of modesty. In that FIR, the aforementioned Javed Shaikh @ Jagga was shown as an accused. As a counter blast to this FIR, present FIR was lodged at the behest of Javed Shaikh @ Jagga. The informant was used by Javed Shaikh to lodge the FIR against applicant No.2 in particular and her husband applicant No.1 and applicant No.3 who is applicant No.1's brother.

5. Shri Suryawanshi submitted that there are no allegations that applicants No.2 & 3 had even demanded or accepted money from the informant. At the highest their role is about causing damage to the wall, but, it will not amount to

extortion and for that purpose their custodial interrogation is not necessary.

6. Learned APP produced investigation papers before me, which include statements of JCB machine owner and operator. The photographs show that applicant No.2 was on the JCB machine when the wall was demolished.

7. I have considered these submissions. There is some substance in learned counsel for the applicants' submissions that the present FIR was lodged after applicant No.2 had lodged FIR against Javed Shaikh. There is reference in the present FIR to the acceptance of money from the informant in the presence of Javed Shaikh. Therefore, there appears to be some connection in these two FIRs and there is a possibility that the present FIR could be a counter-blast to the FIR lodged by the applicant No.2.

8. Apart from that, once the informant had refused to pay Rs.2 Lakhs, there was no further demand. As far as demolition of the wall is concerned, the Corporation can take action against applicant No.2 for her over-enthusiasm and illegal acts. In the present case, the custodial interrogation of

the applicants is not necessary. They can be directed to attend the concerned police station and to co-operate the investigation.

9. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.979/0221 registered with Mumbra Police Station, District-Thane, the applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The applicants shall attend the concerned police station as and when called and shall co-operate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly. In view of disposal of the main application, nothing survives in I.A.No.43/2022 and same also stands disposed of.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Digitally signed by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date: 2022.01.14
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(SARANG V. KOTWAL, J.)

Deshmane (PS)