

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**ANTICIPATORY BAIL APPLICATION NO.1506 OF 2023
WITH ABA/1520/2023 WITH APPLN/3414/2023 IN
ABA/1506/2023**

**MOHAMMAD AYUB MOHAMMAD KHAJA
VERSUS
THE SUPERINTENDENT OF POLICE AND ANOTHER**

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Advocate for Applicant in ABA/1506/2023: Mr. S. S.
Gangakhedkar

Advocate for Applicant in ABA/1520/2023: Mr. R. S.
Deshmukh, Senior Advocate, a/w Ms. Y. A. Namde i/by Mr.
S. A. P. Quadri

APP for Respondents: Mrs. G. L. Deshpande
Advocate for Complainant: Mr. N. E. Deshmukh

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CORAM : R.M. JOSHI, J

DATE : SEPTEMBER 13, 2023

PER COURT :

1. Mr. N. E. Deshmukh, learned Counsel for informant, files application for assisting APP.

2. Having regard to the nature of offence, APPLN/3414/2023 is allowed. He is permitted to assist APP in both applications.

3. Learned Senior Advocate appearing for Applicant states that offence under Section 52-A of Wakf Act, 1955 could not have been initiated on the basis of FIR as sub-section (3) contemplates a

complaint to be made by Board or any Officer Authorised by the State Government in this behalf. It is submitted that in the present case FIR has been lodged in respect of the said offence. It is further submitted that perusal of the FIR itself indicates that it is a civil dispute in respect of obtainment of the possession of property by the Board from original lessee.

4. Having regard to these facts, liberty of the Applicants in both applications is protected till the prosecution is heard in the matter. Hence, the order:

O R D E R

- (i) Issue notice to the Respondents in both applications, returnable on 26th September, 2023. Learned APP waives service of notice on behalf of Respondent Nos. 1 & 2.
- (ii) Till next date, in the event of arrest of the Applicants in both Anticipatory Bail Applications in connection with C.R. No. 237 of 2023 registered with Itwara Police Station, Dist. Nanded for the offences punishable under Sections 420, 448 read with Section 34 of IPC and Sections 52-A of the Wakf Act, 1955, they shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) each with one surety in the like amount.
- (iii) They shall attend the concerned police station as and when required.

- (iv) They shall not contact the witnesses directly or indirectly.
- (v) They not interfere with the evidence in any manner whatsoever.
- (vi) They are further directed to cooperate the investigating agency for further investigation.

(R.M. JOSHI, J.)

Malani