

PMB

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

ANTICIPATORY BAIL APPLICATION NO.3590 OF 2022

RAKESH AWADHESH SINGH @

RAKESH AWADH SINGH

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

WITH

INTERIM APPLICATION NO.1 OF 2023

IN

ANTICIPATORY BAIL APPLICATION NO.3590 OF 2022

PRAVESH KAPILDEV PANDEY

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Mr. A. A. Siddiquie i/b. A. A. Siddiquie and Associates for applicant.

Mr. Shambhu M. Jha a/w Mr. Akash Sharma for intervenor.

Ms. A. A. Takalkar, APP for State.

Mr. Pushpak Ingale, PI, Samta Nagar Police Station, Kandivali (E), Mumbai is present.

CORAM : M. S. KARNIK, J.

DATE : JANUARY 3, 2023.

P.C. :

1. Heard learned counsel for the applicant.

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 141, 143, 145, 148,

147, 448 and 427 of the Indian Penal Code, 1860 (hereafter "the IPC", for short) in connection with FIR No.1438 of 2022 dated 20/11/2022 registered with Samta Nagar Police Station. Subsequently, the offence under Sections 452, 465, 467, 468 and 471 of the IPC has been added.

3. The dispute is in respect of Room No.26 situated at Samta Nagar, Kandivali (East). According to the complainant, the property is owned by his father-Kapildev Pandey. The complainant alleged that the room was in his possession. The room was let out on rent to the tenant-Ajitkumar Rai. It is alleged that on 14/11/2022 the applicant forcibly removed the tenant from the suit premises and inducted himself there.

4. Learned counsel for the applicant strenuously contended that at the highest this is a case of trespass and entirely rests on the documentary evidence. According to him, the premises in question was purchased by the applicant from one Rohit Singh who had purchased the said property from the original owner-Kapildev Pandey. Reliance is placed on the electricity bills of June 2022 to indicate that

the same are standing in the name of Rohit Singh, who is the owner and occupier of the said room in question. According to learned counsel, the applicant had purchased the said room on the basis of the notarized document.

5. Learned APP submits that the investigation so far has revealed, upon enquiry by the Investigating Officer, that the advocate who has notarized the document denied that the document between the applicant and Rohit Singh was notarized by him. There are allegations that the documents on the basis of which the rights are claimed in respect of the said room are forged. There is a statement of the tenant that the room was in his occupation and that they were forcibly made to vacate the same on 14/11/2022 by the applicant. The manner in which the room in question is allegedly vacated is high-handed. Furthermore even the original owner-Mr. Kapildev Pandey who is the father of the complainant has denied to have executed any deed in favour of Rohit Singh from whom the applicant claimed to have purchased the said property. Another glaring fact which has been placed on record by learned APP is that in

respect of the notarized agreement of sale which has been entered into between the applicant and Rohit Singh which is executed in Mumbai on 30/05/2022, it is pointed out that Rohit was in fact facing an externment order dated 27/01/2022 from the limits of Mumbai City, Mumbai Suburban and Thane District for a period of one year. As indicated earlier, the notary has denied having notarized the said document.

- 6.** In this view of the matter, this is not a fit case for grant of pre-arrest bail in favour of the applicant.
- 7.** The Anticipatory Bail Application is rejected.
- 8.** The Interim Application is also disposed of.

(M. S. KARNIK, J.)