

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.286 OF 2023

Mahesh Jasubhai Solanki

...Applicant

vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.108 OF 2023

Greta Edward Coutinho

...Applicant

vs.

The State of Maharashtra

...Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.142 OF 2023

Manish Balraj Solanki

...Applicant

vs.

The State of Maharashtra

...Respondent

....

Mr. Niranjan Mundargi, a/w. Mr. J.V. Tare, for the Applicant in ABA/142/2023 and ABA/286/2023.

Mr. Viral Rathod, a/w. Mr. Rakesh K. Singh, for the Applicant in ABA/108/2023.

Mr. Rohan Hogle, for the Intervenor.

Mrs. A.A. Takalkar, APP, for the Respondent State.

Ms. Sunita Kutwaria, Complainant/Intervenor, present in Court.

Mr. Nazare, API, Juhu Police Station, Mumbai.

....

CORAM : ANUJA PRABHUDESSAI, J.

DATE : 27 APRIL 2023

P.C.:

The Applicants apprehend their arrest in Crime No.1165 of 2022 registered with Juhu Police Station, Mumbai for offences punishable under Sections 452, 380, 341 and 506 r/w 34 of the IPC.

2. Heard learned Counsel for the Applicants, learned APP for the Respondent State and learned Counsel for the First Informant. I have perused the records and considered the submissions advanced by learned Counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Sunita Kutwaria. The Applicant Greta is the owner of the premises, bearing No.G-44, House No.6, situated at Juhu. The First Informant claims that her husband had taken the said premises on leave and license basis and that he was running a hotel in the said premises in the name of "Sachin Dhaba" and paying an amount of Rs.1,300/- per day to the owner of the said premises. The First Informant has stated that about an year prior to the FIR, her husband was not well and that he had gone to their native place at Gwalior, Madhya Pradesh. The First Informant claims that since then, she and her children were running the said hotel. The First Informant had alleged that the owner of the said premises was threatening to dispossess her and, hence, she

filed a civil suit before City Civil Court, Dindoshi, to restrain the owner and others from dispossessing her without following due process of law. It is alleged that the premises were closed since 8 November 2022. On 13 November 2022, the First Informant was informed that some unknown persons had come to the premises and they had removed her belongings from the said premises. Sometime later, the Applicants Manish Solanki and Mahesh Solanki came to the place of incident and threatened to evict her from the premises. Hence, the FIR.

4. At the outset, learned Counsel for the Applicants submits that without prejudice to their rights and contentions, the Applicants are ready to deposit before this Court Rs.76,500/- which is stated to be the value of the belongings of the First Informant, which were allegedly removed from the premises. The statement is accepted.

5. The records reveal that there is dispute regarding possession of the premises, which were let out to the husband of the First Informant. The First Informant claims that she is in possession of the said premises and that she was running the hotel in the premises even after her husband had left to Gwalior, Madhya Pradesh. The Applicants have disputed the said fact. It is stated that the premises were kept closed, since husband of the First Informant was addicted to alcohol. It is further stated that no amount was paid to the owner Greta towards licence fees.

6. It is pertinent to note that the civil suit in respect of the said premises is pending before the Civil Court. It is stated that the Applicants have filed an application under Order 7, Rule 11 of CPC before the Court to reject the plaint for want of cause of action. The issue of possession will be decided in the said suit. The Applicants are on interim bail and they have reported to the Investigating Officer and co-operated with the investigation. In such circumstances, no case is made out for custodial interrogation.

7. Considering the above facts and circumstances, in my considered view, the Applicants are entitled for interim bail on the following terms and conditions:

- (i) In the event of arrest of the Applicants in C.R. No.1165 of 2022, registered with Juhu Police Station, Mumbai, the Applicants shall be released on bail on furnishing PR bonds in the sum of Rs.25,000/- each with one or two sureties to the like amount;
- (ii) The Applicants are directed to report to the Investigating Officer as and when required by the Investigating Officer;
- (iii) The amount of Rs.76,50,000/- shall be deposited in the Registry of his Court within two weeks from the date of this order;
- (iv) The Applicants shall not tamper with the prosecution evidence

and or influence the witnesses in any manner;

- (v) 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.

- 8. All applications are disposed of in the above terms.

(ANUJA PRABHUDESSAI, J.)