

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.435 OF 2023

Dilip Jasawantraj Shah	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Dhanraj A. Lodha a/w Mr. Ashish Verma,
Mr. Jinendra Bora, for the Applicant.

Mr. P. H. Gaikwad, APP for the State-Respondent.

Mr. Premanand K. Torane a/w. MR. Arun E. Mokul, for
Respondent Nos.3 & 4.

PSI of Taloja police station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 9, 2023

P.C.:

1. This is an Applicant under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.') seeking pre-arrest bail in connection with C.R.No.205 of 2022 registered with Taloja police station, Raigad for the offences punishable under Sections 379, 461, 341, 454, 457, 380 r/w. 34 of the Indian Penal Code, 1860 (for short 'IPC').

2. According to prosecution, the Applicant is the developer of the shop premises. Based on registered agreement dated 22nd May, 2017, the Applicant handed over possession of shop Nos.10 & 11 to the informant and others. The informant paid amount of Rs.12,60,000/- towards part consideration of the price of shop.

However, according to prosecution on 25th July, 2022, the Applicant dispossessed the informant from the said shop premises and taken possession of immovable properties of shop premises. The informant, therefore, lodged report against the Applicant. The Applicant filed an application before learned Sessions Judge under Section 438 of Cr.P.C., which has been rejected by an order dated 12th August, 2022.

3. This Court by an order dated 20th February, 2023, recorded a statement of the Applicant that he will hand over the possession of shop premises bearing No.R9, R10 and R11 situated at Tondre, Taluka Panvel, District Raigad to the informant within a period of two days from that day.

4. The learned APP on instructions states that the possession has accordingly been delivered to the informant and another person. Learned APP further states that the custodial interrogation of the Applicant is necessary to recover articles as alleged in the complaint.

5. The learned Advocate for the informant submits that the Applicant is not allowing the informant to peacefully to carry on business.

6. On perusal of first information report (for short 'F.I.R.') along with case papers and the material on record, it appears that essentially alleged offence is of unauthorized dispossessing of informant and another. During pendency the application, the informant has been restored possession of the dispossessed premises. In so far as recovery of the articles mentioned in the

report, learned Advocate for the Applicant states that the Applicant is ready to co-operate with investigation. Considering the controversy, therefore, following order:

- a) In the event of arrest in connection with C.R. No.205 of 2022 registered with Taloja police station, Raigad for the offences punishable under Sections 379, 461, 341, 454, 457, 380 r/w. 34 of IPC, the Applicant shall be released on bail on furnishing P.R. bond of Rs.50,000/-, along with one or two sureties in the like amount.
- b) The Applicant shall remain present before the concerned police station on 12th, 14th and 16th June, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.
- c) The Applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- d) The Applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
- e) The Applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not change the residence till the final disposal of the case.
- d) The Applicant shall not cause any act to disturb peaceful possession of the Applicant over the shop premises. In case of such

disturbance to peaceful possession of handed over parties, the informant shall be at liberty to apply for cancellation of bail.

7. The Anticipatory Bail Application stands disposed of.

(AMIT BORKAR, J.)