

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.517 OF 2023**

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Swapnil Anil Raut

..Applicant

VS.

The State of Maharashtra

..Respondent

Mr. Varad Kilor i/by Adv. Pravada Raut for Applicant.

Ms. P. N. Dabholkar, APP for the State.

Mr. Akhtar Shaikh, PSI, Nalasopara Police Station-present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 21, 2023

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the State.

2. This is an application for pre-arrest bail in respect of the offence punishable under Sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code, 1860 and under Section 52, 53 and 54 of the Maharashtra Regional Town Planning Act, 1966 (for short "MRTP Act") in connection with C.R. No.543 of 2021 dated 30/11/2021 registered with Nallasopara Railway Police Station.

3. Learned counsel for the applicant invited my attention to the order dated 31st January 2023, passed by the learned

Sessions Court in respect of the co-accused-Sachin Ganesh

Vaze, relevant portion of the order reads thus:-

- “4. I have perused the FIR. It is the allegation against the accused(s) that they constructed an unauthorised building without obtaining permission from the Vasai-Virar City Municipal Corporation (VVCMC) in survey No.49, Hissa No.8/4 situated in village Samel. From the FIR it appears that the developer Uma Devi Enterprises is involved in the crime. Its proprietor is one Nilesh Thakur who is resident of Nallasopara West. Investigation revealed that even the commencement certificate was forged. The investigation revealed that there was no construction permission from the Vasai-Virar City Municipal Corporation (VVCMC). As per the police say report Exh.5 the applicant is a partner in the Uma Devi enterprises.
5. Ld. Advocate for the applicant submits that the applicant had invested money in the building project and the accused No.1 Nilesh Thakkar has paid his invested money along with interest. He submits that the applicant had not participated in the forgery or any other criminal act.
6. Ld. APP submits that the investigating officer has filed detailed police say report Exh.5. In the police say report it is reported that police custody is needed for further investigation into the forged Commencement certificate and NA permission as well as bogus rubber stamps. It is also reported that certain amounts were found credited in the joint accounts of the present applicant and accused No.3 Swapnil Raut. Ld. APP has submitted that total amount of duping is 59.40 lac.
7. My observations are like this.
8. It is not clear from the police say report how the applicant was involved in the commission of forgery or using forged documents. Moreover, merely having money from purchasers into bank accounts per se is insufficient to infer role of the applicant in the forgery. It is not explained through the police say report as to how and to what extent the present applicant was involved in the forgery and cheating of the purchasers.

9. I have come to the conclusion that no long or continuous police custody may be needed. The applicant can be made available for the investigation.
10. Keeping in view various observations and directions of the Hon'ble Supreme Court in **Satender Kumar Antil v. CBI** have come to the conclusion that for interrogation with the present applicant, long or continuous police custody of the applicant can be dispensed with. To take care of the apprehensions expressed through the police say report, a direction to attend the concerned police station and cooperate in the matter of investigation shall be imposed on the applicant.
11. Considering the facts and circumstances of the crime and the present application in the light of aforesaid observations, I have come to the conclusion that the application can be considered positively."

4. It is pertinent to note that insofar as the present applicant is concerned, the Trial Court had rejected his Anticipatory Bail Application by an order dated 21st January 2023. Thereafter, an order is passed on Anticipatory Bail Application filed by Sachin Ganesh Vaze, which came to be allowed on 31/01/2023.

5. Learned counsel for the applicant submitted that on the ground of parity, even the present applicant deserves to be granted pre-arrest bail.

6. Learned APP submitted that the Trial Court observed that the present applicant as well as Sachin Ganesh Vaze in

the capacity as partners had received hefty amount of Rs.59,40,000/- from 10 purchasers and that the allegations in the FIR are very serious. Illegal constructions are rampant in the Vasai-Virar belt. This application should not be entertained.

7. I find that Sachin Vaze, the co-accused has been granted pre-arrest bail by the trial court. The present applicants role is similar to Sachin Vaze.

8. In this view of the matter, only on the ground of parity, even the present applicant can be granted the facility of anticipatory bail.

9. Hence, the following order :-

ORDER

(i). Application is allowed.

(ii) In the event of arrest of the applicant in connection with C.R. No.543 of 2021 registered with Nallasopara Police Station, for the offence punishable under Sections 420, 465, 467, 468 and 471 read with 34 of the IPC and under Section 52, 53 and 54 of the MRTP Act.

(iii) In the event of arrest/surrendering, the applicant be released on bail on executing P.R. Bond of

Rs.15,000/- and furnishing one solvent surety, in the like amount.

- (iv) The applicant shall attend the concerned Police Station for interrogation on 02/03/2023, 03/03/2023 and 29/03/2023 between 11.00 a.m. and 1.00 p.m and thereafter as and when called. The applicant shall co-operate with the investigating agency fully.
- (v). The applicant shall not, directly or indirectly, make any inducement, threat or promise to any witnesses or any person acquainted with the facts of the accusation so as to dissuade him from disclosing such facts to the Court or to any Police Officer or he shall not tamper with evidence.
- (vi). The applicant shall surrender his passport, if any, to the concerned Police Station.

10. The Anticipatory Bail Application stands disposed of.

(M. S. KARNIK, J.)