

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

ANTICIPATORY BAIL APPLICATION NO. 911 OF 2023

Akeel Shakeel Ahmed Qureshi ..Applicant

v/s.

The State of Maharashtra . ..Respondents

Mr. H.S.Anand for the Applicant.
Mr. Shrikant Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 28th MARCH, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R.No.149 of 2023 registered with Santa Cruz Police Station, Mumbai for offences under Section 143, 147, 149, 448, 452 r/w. 34 of the Indian Penal Code.

2. Heard learned Counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. The aforesaid crime was registered pursuant to the FIR lodged by Asha R. Naidu. The first informant is working as Assistant Store Manager with M/s. Rahul & Anushka Anand House Lifestyle Pvt. Ltd. A perusal of the FIR reveals that Rahul Anand, who is the proprietor of

Rahul & Anushka Anand House Lifestyle Pvt. Ltd., had taken the gala no.3 in New Sujata Co-operative Housing Society Ltd., Juhu Tara Road, Santa Cruz, (West), Mumbai. on lease from the owner Shri Jafar Chejara and that they were in possession of the same. On 12th February, 2023, when the first informant resumed her duties, she noticed that some unknown persons had trespassed into the said gala and that the articles and other belongings of the Company were missing from the Gala. On being informed, Jafar Chajera, the owner of the gala, as well as Rahul Anand came to the place of the incident. It is alleged that Farooq Chejara, brother of Jafar Chejara, the present Applicant and others had formed an unlawful assembly and criminally trespassed in the gala in possession of Rahul Anand. Based on these allegations, the aforesaid crime came to be registered.

4. The Applicant has placed on record copy of the complaint dated 21.08.2022 filed before the Senior Inspector of Police, alleging that Farooq Chejara was trying to dispossess him from the said gala.

5. The records also indicate that the Applicant herein had also filed a civil suit being Civil Suit No.2170 of 2022 against Farooq Chejara seeking for declaratory relief that he is in possession of the Gala and sought to restrain Farooq from dispossessing him without due process of law. The copy of the plaint, which is placed on record, reveals that the

Applicant herein had entered into an agreement with Farooq Chejara to purchase the said gala. The Applicant had alleged that he is in possession of the said gala and that said Farooq Chejara had tried to dispossess him without following due process of law. The Applicant has placed on record copy of the consent terms and the order sheet dated 12.12.2022, in the said civil suit, a perusal of which prima facie reveals that that Applicant and said Farooq Chejara had entered into consent terms and that the suit was decreed as per the terms.

6. The records prima facie indicate that there is dispute between Jafar Chejara and his brother Farooq Chejara over the said gala. The Applicant is claiming right to the said gala through Farooq Chajera. Whereas Rahul Anand, the proprietor of Rahul & Anushka Anand House Lifestyle Pvt. Ltd. is claiming right through Jafar Chejara. Prima facie, the dispute is of civil nature and hence this is not a case which would justify custodial interrogation. Under the circumstances, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in Crime No. C.R.No.149 of 2023 registered with Santa Cruz Police Station, Mumbai, the Applicant be released on bail on furnishing P.R. bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Investigation Officer.

(ii) The Applicant shall report to the Investigating Officer for two days on 3rd and 4th April, 2023 further as and when required by the Investigating Officer.

(iii) The Applicant shall keep the Investigating Officer informed of his current address and mobile/contact details, and/or change of residence or mobile/contact details from time to time.

(iv) The Applicant shall not interfere with the Complainant and the other witnesses, or tamper with the evidence in any manner.

(ANUJA PRABHUDESSAI, J.)