

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

ANTICIPATORY BAIL APPLICATION NO.1057 OF 2021

1. Ms. Jyoti Shyam Singh Yadav	
2. Ms. Ruby Kumari Ramashankar Rai	
3. Mr. Basheed Shaik s/o. Ibrahim Shaik	... Applicants
v/s.	
The State of Maharashtra and anr.	 Respondents

**WITH
INTERIM APPLICATION NO. 1544 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.1057 OF 2021**

Mr. Charanjeetsingh H. Gill	 Intervenor
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In the matter between :-

Ms. Jyoti Shyam Singh Yadav and ors.	... Applicants
v/s.	
The State of Maharashtra and anr.	 Respondents

Mr. Govind B. Solanke for the Applicants.
Mr. Shrikant Yadav, APP for the State.
Mr. Akash Singh a/w. Mr. A.M. Saraogi for the Intervenor.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 27th MARCH, 2023.

P. C. :-

. This is an Application under section 438 of Cr.PC. filed by the aforesaid Applicants apprehending their arrest in C.R.No.51/2021 registered with Amboli Police Station, Mumbai for offences punishable under sections 379, 452, 506 r/w. 34 of the Indian Penal Code.

2. Heard learned counsel for the Applicants, learned APP for the State and learned counsel for the Intervenor. 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 Charanjitsingh H. Gill/Respondent No.2 herein. The first informant states that he was desirous of letting out his flat situated at B-1305, Adani Western Height, D.N. Nagar, Andheri. Accordingly, on 17/02/2021, he entered into a leave and license agreement with the Applicant No.3 who had expressed his willingness to take the said flat on rent. As per the agreement, the Applicant No.3 was to deposit Rs.2,00,000/- and pay rent of Rs.50,000/- per month. It is stated that on 19/02/2021, the Applicant No.3 deposited an amount of Rs.25,000/- in the account of the first informant. He later learnt that the Applicant Nos.1 and 2 who claimed to be the employees of Applicant No.3, had taken forcible possession of his flat. The Applicant No.3 who had come to the place of the incident, also asserted that he had taken flat on leave and license basis. The first informant claims that some time later, the Applicants left the premises and when he

opened the flat with the duplicate key, he found that his gold ring as well as cash of Rs.50,000/- was missing. He, therefore, lodged the FIR against the Applicants for committing criminal house trespass and theft.

4. The records reveal that the Applicant No.3 had entered into leave and license agreement. He had paid an amount of Rs.11,800/- towards society charges and an amount of Rs.2,00,000/- was given to the first informant towards deposit. The Applicants had placed on record copy of the receipt dated 15/02/2021 issued by the Complainant for having received cash of Rs.2,00,000/- towards security deposit. It is also on record that the Applicant No.3 had filed suit against the Complainant before Small Causes Court and by order dated 25/03/2021, the Complainant was restrained from dispossessing the Applicants from the suit flat or creating third party rights of the subject matter.

5. In view of the above facts and circumstances, the essential ingredients of criminal house trespass are not prima facie made out. Learned APP states that the Applicants have complied with the directions given in the order dated 21/04/2021 and have reported to the Investigating Officer. They have co-operated with the investigation

and their presence is not required for the purpose of custodial interrogation. Learned APP further states that the investigation is completed and charge sheet will be filed within two to three weeks.

6. Considering the above facts and circumstances, this is a fit case to exercise discretion under section 438 of Cr.P.C. Hence, the Application is allowed on the following terms and conditions :-

(a) In the event of arrest of the Applicants in C.R.No.51/2021 registered at Amboli Police Station, Mumbai, they shall be released on bail on furnishing bail bonds in the sum of Rs.20,000/- each with one or two sureties in the like amount ;

(b) The Applicants shall report to the Investigating Officer as and when required by the Investigating Officer ;

(c) The Applicants shall not interfere with the Complainant and the other witnesses and shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case in any manner ;

(d) 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.

7. The Application stands disposed of. Interim Application stands disposed of in view of disposal of Anticipatory Bail Application.

PREETI
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JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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Date: 2023.04.03
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