

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

ANTICIPATORY BAIL APPLICATION NO. 1761 OF 2023

Naresh Namdeo Patil

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Ashok Mundargi, Sr. Advocate i/by Mr. Amol Patankar a/w Mr. Vatsal Thakkar - Advocate for the Applicant

Mr. S. R. Agarkar - APP for the Respondent-State

PSI R. D. Narsinghe – Kapurbawadi Police Station, Thane City

CORAM : S. M. MODAK, J.

DATE : 03rd JULY, 2023

P. C. :-

1. Heard learned Senior Advocate Shri Mundargi for the Applicant. Anticipatory bail is sought in C.R. No 119 of 2023 registered with Kapurbawdi Police Station on 05/04/2023 under Sections 420, 465, 468, 471 read with 34 of the Indian Penal Code. One Neeraj Eknath Kabadi has complained to Kapurbawdi Police Station about certain unauthorized constructions and report of Thane Municipal Corporation was called. They have opined that commencement certificate dated 28/08/2020 was not issued by

them. This certificate was part of the registered agreement for sale executed in the year 2020 in between M/s Jai Matadi Enterprises Proprietor-present Applicant on one hand and purchaser Sarika Harishchandra Hamare on the other hand. That is why the Police have registered the offence against the present Applicant being the Developer and also against owner of the land.

2. The contention is that there is an offence registered at C.R. No. II 92 of 2021 on 19/03/2021 with the same Police Station under Section 397 of the Maharashtra Municipal Corporation Act and even charge-sheet is filed. Contention is that if it is so, second F.I.R. will not be maintainable. It is true that in both these F.I.R.s the first informant is representative of Thane Municipal Corporation. It is also true that it was expected from the Thane Municipal Corporation to initiate action if at all there is forged commencement/completion certificate. But when the earlier F.I.R. was registered and investigated, the present Applicant has not disclosed that he was having any permission from the Corporation. There is panchnama about the spot on page no. 53 and it mentions about non production of any documents by the present applicant. It is part of the charge-sheet filed in the earlier offence.

3. So Corporation at that time claimed that there was no permission. Even the Applicant has not claimed about the permission at that time. So the permission annexed to the agreement for sale is cause action for this F.I.R.. On this background, the contention raised about non maintainability of the new F.I.R. cannot be accepted.

4. The investigating agency wants to unearth how these bogus permissions/certificates are prepared. Custodial interrogation is required. No case for anticipatory bail is made out and hence it is dismissed. These are *prima-facie* observations.

[S. M. MODAK, J.]