

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1768 OF 2023**

Rostan Peter D silva and Ors. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Hrishikesh Mundargi a/w Ms.Shweta R. Rathod i/b. Elixir Legal Services – Advocates for Applicant.
Mr.S.R.Agarkar – APP for Respondent-State.
Mr.N.D.Purbhe – API – Vasai Police Station.

**CORAM : S. M. MODAK, J.
DATED : 3RD JULY 2023**

P. C. :

1. Heard learned Advocate Shri.Mundargi for the Applicants and learned APP. Investigating Officer is present.
2. The incident has taken place while surveying the land bearing Survey No.48/1, 48/2 at Mauje Vasalai, Taluka : Vasai on 29th May, 2023. The First-Informant who is surveyor has visited the land for the purpose of survey and it is ordered by District Superintendent of Land Record. One Rahul Jaiswal has applied for surveying the land. These Applicants objected for the survey. However, it was turned down on 10th May, 2023 and survey was ordered on 23rd May, 2023.

Satish Sangar

3. At the time of survey, it is the case of the First-Informant that all these Applicants have obstructed and even removed the survey articles. That is why, an FIR is registered at Vasai Police Station on 30th May, 2023 under Sections 143, 147, 149, 332, 353, 506 of Indian Penal Code, 1860 [“IPC”].

4. The Applicants claim that in fact, the person by name Rahul Jaiswal is encroacher on the said land and the present Applicants are the real owners and there is dispute going on with him. According to them, in fact, they have not obstructed by taking law into their hands but an objection was taken legitimately. There is reliance on few of the documents annexed to the present Application. They are as follows :-

- (i) Panchnama carried out on 20th February, 2023 i.e. earlier to the date of incident.
- (ii) A statement of all the objectors recorded on 29th May, 2023 wherein they have protested to the outcome of the survey.
- (iii) Copy of statement recorded of Rahul Jaiswal wherein he has said that he is not having any objection about the survey so far carried out.
- (iv) Panchnama dated 29th May, 2023 which mentions that survey was completed.

5. The statements of the witnesses present at the spot are also

recorded. It consists of few of the Police personnel. In fact, the survey articles are returned to the Office of Survey Department. Now, there is nothing to be recovered at the instance of the Applicants.

6. It is submitted that there was no intention to obstruct the public servant in discharge of their public duty but ultimately, an objection was taken for protection of their interest. Ultimately it will be decided by the trial court. Case for anticipatory bail is made out.

Hence, order :-

O R D E R

- (i) In case of an arrest in connection with C.R. No. 163 of 2023 registered with Vasai Police Station – District : Palghar for the offences punishable under Sections 143, 147, 149, 332, 353, 506 of IPC, 4 of IPC, the Applicants namely ; (i) Rostan Peter D'silva (ii) Vijay Peter D'silva ; (iii) Wilson Peter D'silva and (iv) Salomi Vilson D'silva be released on furnishing personal bond and surety bond of Rs.15,000/- each.
- (ii) Applicant Nos.1 and 2 are directed to give attendance to Vasai Police Station – District : Palghar on first and third Saturday from 10.00 to 12.00 for three months.
- (iii) Applicants not to threaten the Prosecution witnesses or to allure them in any manner.

(iv) In case of breach of any of the conditions, the bail of the Applicants is liable to be cancelled after notice.

7. These are my *prima facie* observations. Let the learned trial Court need not be influenced by them.

8. Application is disposed of in the aforesaid terms.

9. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]