

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

ANTICIPATORY BAIL APPLICATION NO. 1951 OF 2023

1. Mrs. Rajiya Gulamali Shaikh
2. Mr. Sameer Gulamali Shaikh
3. Mr. Firoz Gulamali Shaikh
Mrs. Heena Firoz Shaikh

..Applicants

v/s.

The State of Maharashtra .

..Respondents

Mr. Madhukar Dalvi a/w. Harsh Parte a/w. Prachi Parte for the Applicant.
Mr. S.H.Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI ,J.
DATED : 13th JULY, 2023.**

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid Applicants apprehending their arrest in C.R.No.135 of 2023 registered with Kandivali Police Station for offences under Section 380, 454, 457 of the Indian Penal Code.

2. Heard learned Counsel for the Applicants, 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 Abdul Majid Shaikh. The Applicant No.1 is the sister-in-law of the first

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informant. The facts narrated in the FIR reveal that there is a civil dispute between the first informant and the Applicants in respect of house known as Gulistan Bungalow, situated at Kandivli (West), Mumbai. The first informant has filed a suit, and by order dated 7.12.2016 this Court had restrained the Applicant No.1 and others from creating third party rights and/or from disturbing the possession of the first informant in respect of the two rooms. The first informant is settled in USA. He claims that on 9.3.2020 before going to USA, he had locked his two rooms and handed over the keys to Viable Technology. He also claims that he had installed CCTV camera for security reasons. He claims that when he returned to India on 9.2.2023, On 9.2.2023, when he visited the house, he found that the main gate open, he found that the lock put by him was replaced and several items from his room were missing. Hence the FIR.

4. The records reveal that the complainant had lodged similar complaint in the year 2017, with similar allegations. Even otherwise, the first information report and the other material on record does not prima facie indicate that the Applicants herein were involved in trespassing into the room of the first informant, and/or committing theft of his articles.

5. Learned Counsel for the Applicants states that the Applicant No.2

is a pilot by profession, and that he shall report to the Investigating Officer as and when required.

6. Considering the nature of the accusation, in my considered view, this is not a case which would justify custodial interrogation. Hence the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicants in Crime No. 135 of 2023 registered with Kandivali Police Station, the Applicants be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twentyfive Thousand Only) each with one or two sureties in the like amount;

(ii) The Applicant Nos.1, 3 and 4 shall report to the Investigating Officer for two days on 17th and 18th July, 2023, between 11.00 a.m. to 2.00 p.m. and further as and when required by the Investigating Officer.

(iii) The Applicant No.2 shall report to the Investigating Officer as and when required for the purpose of investigation.

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

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

. **Application stands disposed of.**

(ANUJA PRABHUDESSAI, J.)