

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

ANTICIPATORY BAIL APPLICATION NO.2067 OF 2022

1. Abdul Jabbar Haji Sardar
Chhawniwala
2. Mohammed Saeed Mohammed
Usman Qureshi
3. Imtiyaz Yasin Khorajiya
4. Iliyas Gulam Rasul Sheliya
5. Mohammed Aslam Zahooruddin
Nagori
6. Mushtak Usman Malkani
7. Nadeem Abdul Latif Qureshi
8. Aijaz Majid Qureshi
9. Rajan Dattatray Hate

...Applicants

Versus

The Senior Inspector of Police, D.N.
Nagar Police Station and Anr.

...Respondents

...

Mr. Shoaib Memon with Mr. Ibrahim Memon for the Applicants.
Ms A.A. Takalkar, APP for the Respondent No.2-State.
Mr. Vaibhav Khade, PSI, D.N. Nagar Police Station, present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 6th JULY, 2023.

P. C. :-

1. The Applicants apprehend their arrest in C.R. No. 366 of 2022 registered with D.N. Nagar Police Station, Mumbai, for the offences punishable under Sections 193, 200, 203, 406, 419, 420, 442, 452, 464, 465, 467 and 474 r/w 34 of the IPC.

2. Heard Mr. Shoaib Memon, learned counsel for the Applicants and Ms A.A. Takalkar, learned APP for the Respondent-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 Dilawar Ibrahim Malkani. From the facts narrated in the FIR it appears that there is a dispute in respect of buffalo sheds, which are owned by the Complainant. The Applicants claimed to be the tenants of the said structures. Said structures were in dilapidated conditions hence the BMC issued notice for eviction. The owner as well as the Applicants challenged the said notice by filing a writ petition, which was dismissed by the High Court and challenge to the said order was also dismissed by the Hon'ble Supreme Court.

4. It is stated that as per the TAC guidelines, the Complainant as well as the Applicants have submitted the measurements of the structures. The Complainant claims that the measurements are incorrect and some non existing structures have been shown in the said map. This appears to be the only allegation against the Applicant.

Though learned APP states that the Applicants have fabricated some Government documents, she is unable to give any further details of the same for want of instructions from the Investigating Officer. Crime was registered on 22/04/2022. Till date, there does not appear to be any progress in the investigation.

5. Considering the nature of accusations and the material in support thereof, in my considered view this is a fit case to exercise discretion under Section 438 of the Cr.P.C. in favour of the Applicants. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicants in C.R. No. 366 of 2022 registered with D.N. Nagar Police Station, Mumbai, they are ordered to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- each with one or two sureties in the like amount.

(ii) The Applicants shall report to the concerned Investigating Officer for a period of two days i.e. on 10/07/2023 and 11/07/2023 between 10.00 a.m. to 1.00 p.m. and thereafter as and when

required by the Investigating Officer for the purpose of investigation;

(iii) The Applicants shall not tamper with the prosecution evidence and or influence the witnesses in any manner;

(iv) 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.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)