

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

ANTICIPATORY BAIL APPLICATION NO. 2107 OF 2023

1. Narseen Mohd Salim Shaikh and
2. Mohammed Salim Shaikh s/o Abdul
Aziz Shaikh ...Applicants
vs.
The State of Maharashtra ...Respondent

Adv. Arun Rajput a/w Adv. V Mukte i/by Bilal Motorwala - Advocate
for the Applicants

Mr. H. J. Dedhia - APP for the Respondent-State
API Pratibha Joglekar – Vashi Police Station, Navi Mumbai

CORAM : S. M. MODAK, J.

DATE : 10th AUGUST, 2023

P. C. :-

1. Heard learned Advocate for the Applicants and learned
APP. Officer is present.

2. The F.I.R. is registered for the reason that in spite of the
registered leave and license agreement dated 09/06/2022, the
Applicant has failed to handover the possession of the licensed
premises, whereas the amount of deposit is Rs. 15 Lakhs. Whereas
the Applicant claims that even though there was registered leave and
license agreement in fact it is not towards the room, when it is hand
loan taken for bakery business. When there was failure to pay
interest, this F.I.R. came to be lodged on 07/10/2022 with Vashi

Police Station under Sections 406, 420 read with 34 of the Indian Penal Code.

3. Apart from the first informant, there are also persons by name Sudalai Konar, Chand Mohammad Momin, Afroz Khan and Fatima Shaikh who have also paid heavy deposit but no licensed premises are handed over to them. There is notice issued by one Mr. V. Sudalai Konar to the present Applicant. It is on page no. 19. It is in respect of dishonour of the cheques. Those cheques were issued towards return of the amount, alternatively notice has mentioned that present Applicant has assured to return the amount in the installment of Rs. 25,000/-.

4. There is a reason to believe that the transaction is hand loan transaction. Due to Covid, the bakery business runs in loss and amount is not repaid.

5. Learned Advocate is having instructions that his client is going to refund the amount of Rs. 15,00,000/- within a period of three months. Let that undertaking be filed within a week, subject to this the following order is passed:-

ORDER

- (i) Anticipatory bail application is allowed.
- (ii) In case of arrest in connection with C.R. No. 306 of 2022 registered with Vashi Police Station for the offence

punishable under Sections 406, 420 read with 34 of the Indian Penal Code, the Applicant No. 1 -Narseen Mohd Salim Shaikh and Applicant No. 2 - Mohammed Salim Shaikh s/o Abdul Aziz Shaikh be released on furnishing Personal Bond and Surety Bond in sum of Rs. 25,000/- subject to following conditions:-

- a) File an undertaking within a week from today that the Applicant will return the amount within a period of three months from today.
- b) The oral undertaking to refund the amount of Rs. 15,00,000/- within a period of three months from today is accepted.
- (iii) In case if these terms are not complied with the protection granted will stand vacated.
- (iv) Applicant is directed to give attendance to the Vashi Police Station on first and third Monday from 10.00 a.m. to 12.00 noon till filing of the charge-sheet.

6. It is made clear that these are my *prima-facie* observations.

7. Anticipatory bail application is disposed of in the aforesaid terms.

8. All the parties to act on an authenticated copy of this Order.

[S. M. MODAK, J.]