

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO.2309 OF 2023
WITH
INTERIM APPLICATION NO.3013 OF 2023**

Haresh Sanghavi and Another	...Applicants
vs.	
The State of Maharashtra	...Respondent

Mr. Niranjan Mundargi a/w. Ms. Siddhi Bhosale, Mr. Yadunath Chaudhari, Ms. Disha Jain, Mr. Kevin Pereira i/b. Mr. Chinmaya Acharya, for the Applicants.

Mrs. Geeta Mulekar, APP, for the Respondent/State.

Mr. Adenurala, for the Intervener.

Mr. Sachin Karanjikar, API, Andheri police station present.

CORAM : N. J. JAMADAR, J.

DATE : SEPTEMBER 11, 2023

P.C.:

1. Heard the learned counsel for the applicants and the learned APP for the State.

2. The first informant lodged report with the allegations that the applicants had inducted him in a premises without obtaining the occupation certificate. The first informant was made to incur expenses to the tune of Rs. 1,65,00,000/-. The applicants made the first informant to draw 6 cheques towards payment of rent, and, without intimation, those 6 cheques were presented for encashment and, hence, dishonoured. On 26th November, 2020 the applicants

forcibly took possession of the premises without issuing a termination notice.

3. The first information report makes reference to the proceeding instituted by the first informant to regain the possession of the premises. Evidently, the first informant was allegedly dispossessed on 26th November, 2020. The first information report came to be lodged on 16th July, 2023. In the intervening period, it seems the applicants had lodged complaint against the first informant for the offence punishable under section 138 of Negotiable Instruments Act, as the cheques drawn by the first informant towards the discharge of liability to pay the rent came to be dishonoured. The learned Magistrate by a judgment and order dated 25th July, 2023 convicted, inter alia, the first informant and Saurabh Nagarjun Rao, Director of Arredqa Homes Private Limited. It further appears that the first informant instituted a suit for regaining the possession of the premises.

4. Prima facie, the offences have their genesis in the dispute between the parties over the lawful termination of the Leave and Licence Agreement and the alleged eviction of the first informant by taking law in hand. The learned counsel for the first informant

submitted that the fact that the occupation certificate had not been granted and yet the first informant was put in possession of the premises indicates that the intention of the applicant was dishonest since the inception of the transaction. That is the question which warrants adjudication at the trial.

5. At this stage, having regard to the nature of the accusation and the material on record, especially the conviction of the first informant and another Director for the offence punishable under section 138 read with 141 of Negotiable Instruments Act, 1881, and the correspondence which indicates that the applicant had repetitively demanded the due rent and even issued termination notices, the custodial interrogation of the applicant is not warranted to facilitate further investigation. The applicant appears to have roots in society. The possibility of fleeing away from justice and tampering with the evidence also appears remote.

6. I am, therefore, inclined to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] In the event of arrest in C.R. No. 371 of 2023 registered with Andheri police station, the applicants be released on bail on furnishing a P.R. bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.
- 2] The applicants shall cooperate with the investigation and attend Andheri police station, on every Saturday in between 10 am to 12 noon for one month.
- 3] The applicants shall attend the proceeding before the jurisdictional Court.
- 4] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.
- 5] In view of above, the interim application also stands disposed.

(N. J. JAMADAR, J.)