

Sayali Upasani

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

ANTICIPATORY BAIL APPLICATION NO. 2711 OF 2023

Vishwesh Deshmukh	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. R. A. Naik, for Applicant.

Mr. M. G. Patil, APP for State.

Mr. Siddhant Dalvi i/b Mr. Prathamesh Samant, for
Intervenor- Org. Complainant.

CORAM:- N. J. JAMADAR, J.

DATED:- 27th SEPTEMBER, 2023

P.C.:-

- 1) Heard the learned counsel for the applicant and the learned APP for the State.
- 2) This is an application for pre-arrest bail in connection with C.R. No. 395 of 2023, registered with Pantnagar Police Station, for the offences punishable under Sections 452, 447, 448 read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").

3) The gravamen of indictment against the applicant is that the first informant and his family members had been in possession of premises B/7, Shri. Sahavas Nath Pai Nagar, Ghatkopar, (E) Mumbai from 1974 to February 2022. In the month of February 2022 taking undue advantage of the fact that the said family was not in the said premises, the applicant and his associates Sunita Talapalli and Balraj Talapalli unlawfully took possession of the said premises by committing house trespass.

4) The learned Counsel for the applicant submitted that the title of the applicant over the subject premises is not disputed. A Civil Suit has already been instituted in respect of the subject premises. The alleged incident occurred in the month of February, 2022 and the FIR came to be lodged on 6th June, 2023. It was further submitted that the first informant had lodged a report on 4th February, 2022 and, at that time, the Investigating Officer had submitted a report to the effect that nothing objectionable was noticed during the relevant period, in the CCTV footages.

5) The learned APP resisted the prayer for pre-arrest bail. It was submitted that the informant party was forcibly and unlawfully dispossessed.

6) Evidently, the informant party and the accused are at loggerheads over the possessory title over the subject premises. The incident allegedly occurred in the month of February, 2022. The report of the Investigating Officer dated 10th March, 2022 indicates that the investigation prima facie indicated that the dispute was of civil nature. In any event, even if the allegations in the FIR are taken at par and the offence punishable under Section 452 of the Penal Code is held to be prima facie made out, custodial interrogation of the applicant does not seem warranted for further investigation. The applicant appears to have roots in society. The possibility of tampering with evidence and fleeing away from justice seems to be remote.

7) I am, therefore, persuaded to exercise the discretion in favour of the applicant.

8) Hence, the following order:-

ORDER

1) In the event of arrest of the applicant in connection with C.R. No. 395 of 2023, registered with Pantnagar Police Station, for the offences punishable under Sections 452, 447, 448 read with Section 34 of Indian Penal Code, 1860, the applicant be released on

bail on executing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

II) The applicant shall co-operate with the investigation and attend Pantnagar Police Station, on every alternate Saturday in between 10.00 am to 1.00 pm for a period of two months or till filing charge-sheet, whichever is earlier.

III) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.

IV) It is clarified that these *prima facie* observations are confined to determine the entitlement to pre-arrest bail only.

V) The application stands disposed.

[N. J. JAMADAR, J.]