

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

ANTICIPATORY BAIL APPLICATION NO. 3168 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Mahendra Shivaji Gunjal ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Sanjeev Deore, a/w Suchita Pawar, for the Applicant.
Mr. S. H. Yadav, APP for the State/Respondent.
Mr. Krishnanand Mishra, a/w Arun Gupta, for the
Intervener.

CORAM: N. J. JAMADAR, J.
DATED: 9th NOVEMBER, 2023

ORDER:-

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 402 of 2023 registered with Khadakpada police station for the offences punishable under Sections 354, 323, 504, 506, 143, 147 and 149 of Indian penal Code, 1860.
3. Jalaram Darshan building, in which the first informant and other witnesses resided, was given for redevelopment to a developer, Akruti Housing Partnership Firm of Mr. Kiran Shiledar and the applicant are the partners, under Redevelopment Agreement dated 6th December, 2021. The

developers had agreed to deliver the possession of the redeveloped building within one and half year of the said agreement. A dispute arose.

4. The first informant alleges the developers were asked to stop the work. On 12th September, 2023 when the first informant and other members of the society had visited the site, they found that the developers had started construction without intimation to the society. An altercation ensued.

5. The applicant and the co-accused Kiran Shiledar and Shivaji Gunjal allegedly abused and assaulted the first informant and the other witnesses. The applicant and the co-accused allegedly used criminal force to the first informant with intent to outrage her modesty and tore off her clothes. Hence, the report.

6. The learned counsel for the applicant submitted that the applicant has been falsely roped in, on account of dispute over the redevelopment project.

7. The learned APP submitted that there are specific allegations of forming an unlawful assembly and committing the offences in prosecution of common object, including the offence of outraging the modesty of the first informant.

8. *Prima facie*, it appears that dispute arose over the pace

of the redevelopment project. In the backdrop of the nature of the accusations, the question as to whether the applicant had used the criminal force with intent to outrage the modesty of the first informant appears debatable as evidently a fracas followed an altercation. I am, therefore, persuaded to exercise the discretion in favour of the applicant.

9. Hence, the following order.

ORDER

1. In the event of arrest of the applicant in C.R. No.402 of 2023, registered with Khadakpada police station, the applicant 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, each.
2. The applicant shall cooperate with the investigation and attend Khadakpada police station on 21st and 22nd November, 2023 in between 10 am to 1.00 pm and, thereafter, as and when directed.
3. The applicant shall not tamper with the prosecution evidence and give threat or inducement to the first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.
4. The applicant shall regularly attend the proceedings

before the jurisdictional Court.

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

Application stands disposed.

[N. J. JAMADAR, J.]