

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
ANTICIPATORY BAIL APPLICATION NO.2557 OF 2018**

Mustaqeem Ahmed Shaikh

...Applicant

vs.

State of Maharashtra

...Respondent

None for the Applicant.

Mr. H. J. Dedhia APP for the Respondent-State.

Mr. Jaywant K. Jagtap, API, Koparkhairane police station.

**CORAM : S. M. MODAK, J.**

**DATED : 1ST JULY 2023**

**P. C. :**

1. This matter is listed today, after due notice. It is pending since 2020.
2. No one has appeared on behalf of the present Applicant. The officer is present, however, he is not the Investigating Officer.
3. Learned APP sought time to take further instructions, however, when this Court has perused the record, I find that no purpose will be served by adjourning the matter.
4. This Court has already granted interim protection as per the order dated 13th December 2018. The offence is registered under C.R. No.344 of 2018, with Koparkhairane police station under

sections 452, 323 and 506 read with 34 of IPC. The FIR is lodged by one Nashad Thakkar, on 1st November 2018. His company undertakes the job of handing over possession as per the orders of Debt Recovery Tribunal. The company is on the panel of DRT. The company is in possession of Flat No.401, 4th Floor, Sakshi Apartment, Koparkhairane village, Navi Mumbai.

5. On 14/06/2018, the present Applicant along with others assaulted the security guard of the company and broke the lock and took possession. The DRT on 3/10/2018, directed to take back possession. Accordingly, on 12/10/2018, the possession was taken over with the assistance of Koparkhairane police station.

6. On 17/10/2018, the first informant was informed by the Security Guard that four persons, who have covered their faces, have entered the premises by breaking open the lock. Accordingly, the complaint came to be lodged.

7. It seems that there is notice was issued to the present Applicant under section 41-A of the Code of Criminal Procedure on 10th November 2018, (page 15). It further reveals that present Applicant has filed Application before the DRT, page 49, for intervention. It was proceedings in between Certificate Holder, Bank of India and

Certificate Debtor M/s. Aman Enterprises & Others. The Applicant claims that he has purchased flat vide sale deed dated 3rd July 2009, from one M/s. Rajan Loke. Its copy is there on page 55. The bank has filed Petition before the DRT (page 119). The bank has taken objection to the agreement on various grounds. Accordingly, the contention is that there is collusion in between certified debtor and the Applicant. This Application was rejected on 25th July 2018 (page 122).

8. It seems that during investigation the police have applied sections 465, 468, 471 of IPC. Probably, it is on the basis of obtaining forged signatures of Malti Builders and the allegation is against the co-accused Rajan Loke and Anil Patil. That report is taken on record and marked as Annexure 'A'. There is no allegation against present Applicant that he has forged those signatures.

9. So far as allegations against present Applicant is concerned, it pertains to taking over possession of the flat in question. So no further purpose will be served by keeping this Application pending. I do not feel that custodial interrogation of the Applicant is required, even on the original allegations and on the facts disclosed subsequently. Hence, the following order is passed :

ORDER

- (a) The order dated 13th December 2018, is confirmed.
  - (b) The Applicant to cooperate the police as and when required.
10. Application is disposed of accordingly.

**[S. M. MODAK, J.]**