



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 8 OF 2024

Santosh Vishwanath Zalte

... Applicant

VERSUS

The State Of Maharashtra

... Respondent

.....

Mr. Somnath G. Ladda, Advocate for Applicant

Mr. A.R. Kale, APP for Respondents – State

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 30th APRIL, 2024

ORDER :

1. Applicant apprehends arrest in Crime No. 0989 of 2023, registered with M.I.D.C. Waluj Police Station, Aurangabad for offence punishable under sections 447, 427 of the Indian Penal Code and under Section 3 of the Prevention of Damage to Public Property Act.

2. FIR is lodged by Asmita Tejrao Virshid, Assistant Property Officer, CIDCO Waluj, Chhatrapati Sambhajanagar. It is alleged that on 28.10.2023, when she was on weekly leave, at about 11.00 p.m., she received a call from security guard Bhausahab Wagh that some persons are demolishing utility building-cum-toilet block and Yoga ota in Gut No.140 owned by CIDCO. She, therefore, asked Clerk-cum-typist

Harshvardhan Salve, Security Guard Vikas Pawar, Gajanan Gavali to visit the spot. They went to spot and saw that applicant was directing two JCB machine drivers to demolish the construction. When applicant was informed that the land and construction belongs to CIDCO, he refused to accept that. He stated that the land belongs to Ishwar Tukaram Pradhan and Madan Tukaram Pradhan and they have sold it to Dnyandeo Kale and Amol Sukhdeo Kale and he is carrying out the demolition at the instance of Ishwar Pradhan and Madan Pradhan.

3. Heard learned advocate for applicant and learned APP for respondents - State. Perused the Investigation papers.

4. It is the case of applicant that the land though initially was shown to be acquired by the CIDCO, which was subsequently released from acquisition and in partition the said land came to the share of Ishwar Pradhan and Madan Pradhan and at their instance, he has demolished the construction so as to remove encroachment.

5. Investigation papers reveal that there are statements of eye witnesses who have seen that applicant was directing demolition of construction, which was carried out by two JCB machines.

6. Learned APP submits that those two JCB machines are to be seized by taking applicant in custody.

7. It is common knowledge that applicant have engaged JCB machines owned by someone else, who gave JCB on rent. Nothing would be achieved by seizing JCB machines. There is sufficient material on record to show that demolition is carried out at the instance of applicant. However, considering allegations made in the FIR and the material collected during investigation, nothing is to be recovered from applicant though learned APP submits that the documents on the basis of which Pradhan brothers claimed ownership of the said land are required to be recovered, those cannot be recovered from applicant and it can only be recovered from Pradhan brothers. Applicant is permanent resident of village Wadgaon Kolhari, Waluj and he has deep roots in the society and he will not abscond if released on bail. No useful purpose would be served by remanding the applicant in custody.

8. Applicant was granted interim protection and he has co-operated in the investigation. As nothing is to be recovered from applicant, his pre-trial custodial detention is not necessary in the facts of the present case.

9. Application is therefore allowed by confirming interim protection granted to applicant by order dated 04.01.2024.

10. Till filing of charge-sheet, applicant shall attend the concerned police station as and when called by the Investigating Officer. Applicant shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE