

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

Cri. Application No.179 of 2024

Umeshchandra Krishnarao Powar
Adult Indian Inhabitant
Aged about 55 years, Occ:Business
Having address at Flat No.9,
4th Floor, Jai Bhavani Coop. Hsg
Society Ltd, Gokhale Road,
Mulund (E), Mumbai-400 081

... Applicant

Versus

1. The State of Maharashtra
2. The Inspector of Police
Kanjurmarg Police Station.
3. Kailash Sudam Bhoir
472, 477, Ramchandra Bhoir Chawl,
Shreenath Society, Bhandup (E)
Mumbai-400 042.

... Respondents

With

Cri. Application No.181 of 2024

1. Vrushali Vijay Panchal
Adult Indian Inhabitant
Aged about 55 years,
Occ: Business.
2. Namdeo Govind More
Adult Indian Inhabitant
Aged about 58 years,
Occ: Business.

3. Yashraj Vijay Panchal
Adult Indian Inhabitant
Aged about 27 years,
Occ: CA

All having office address at Flat
No.9, 4th floor, Jai Bhavani CHS,
Gokhale Road, Mulund (E),
Mumbai - 400081.

... Applicants

Versus

1. The State of Maharashtra
2. The Inspector of Police
Kanjurmarg Police Station
3. Kailash Sudam Bhoir
472, 477, Ramchandra Bhoir Chawl,
Shreenath Society, Bhandup (E)
Mumbai-400 042.

... Respondents

With

Cri. Application No.182 of 2024

Dilip Kalyanji Shah
Adult Indian Inhabitant
Aged about 54 years, Occ: Business
Having address at 5/14,
Janki Kunj, Opp. Ramanand Society,
MV Pandloskar Marg,
Hanuman Cross Road No.2,
Vile Parle (E), Mumbai-57.

... Applicant.

Versus

1. The State of Maharashtra

2. The Inspector of Police
Kanjurmarg Police Station.
 3. Kailash Sudam Bhoir
472, 477, Ramchandra Bhoir Chawl,
Shreenath Society, Bhandup (E)
Mumbai-400 042
- ... Respondents

Mr Aabad Ponda, Senior Advocate, along with Mr RK Kini, Mr Anukul Setha, Mr Talha Siddiqui and Mr Eden Ribeiro, for the applicants.

Ms Supriya Kak, APP, for the respondent/State.
PSI Sarkte, Kanjurmarg Police Station.

Coram: R.N. Laddha, J.
Date: 12 December 2024.

P.C.:

By these applications, the applicants seek modification of condition No.2(iv) imposed by the Sessions Court while granting pre-arrest bail on 10 May 2024 in Anticipatory Bail Applications No.565 of 2024, 752 of 2024, and 760 of 2024.

The relevant operative part of these orders reads as follows:

“The applicant shall not alienate any immovable property in his name or in the name of his family members or any other concern person if any, without permission of the Court.”

2. The applicants applied to modify this condition before the

Sessions Court; however, on 24 June 2024, the request was denied, citing the ongoing investigation. The Sessions Court also granted liberty to the applicants to renew their request after filing the charge sheet.

3. Mr Aabad Ponda, the learned Senior Counsel appearing on behalf of the applicants, submits that the informant and the applicants entered into a Memorandum of Understanding to sell a land. Disputes arose between them, leading to the informant filing a civil suit bearing No.453 of 2023 before the City Civil Court, Mumbai. The informant alleges that during the pendency of this suit, on 3 February 2024, the applicants encroached upon the land and assaulted the informant, resulting in the filing of the present FIR. The learned Senior Counsel contends that the informant has applied for a temporary injunction in the suit. While the informant was granted *ad-interim* relief on 31 January 2024, the City Civil Court vacated it on 2 February 2024. According to Mr Ponda, the aforesaid condition is in the nature of an injunction and binds the other family members who have no connection with the alleged crime. To bolster his submissions, Mr Ponda cites *Gurbaksh Singh Sibbia Vs State of Punjab, (1980) 2 SCC 565; Mahesh Chandra Vs State of U.P., (2006) 6 SCC 196; Munish Bhasin Vs State (NCT of Delhi), (2009) 4 SCC 45; Amarjit*

Singh Vs State (NCT of Delhi), (2009) 13 SCC 769; Sumit Mehta Vs State (NCT of Delhi), (2013) 15 SCC 570; Dilip Singh Vs State of M.P., (2021) 2 SCC 779; Bimla Tiwari Vs State of Bihar, (2023) 11 SCC 607; and Ramesh Kumar Vs State (NCT of Delhi), (2023) 7 SCC 461.

4. Ms Supriya Kak, the learned Additional Public Prosecutor representing the respondent/ State, submits that the offence is serious, and the investigation is ongoing. However, if the Court is inclined to modify the condition, appropriate orders may be passed.

5. Upon perusing the records, it appears that the crime vide CR No.56 of 2024 was registered by the informant against the applicants at the Kanjurmarg Police Station, Mumbai, for offences punishable under Sections 323, 325, 427, 452, 448, 504 and 506, read with 34 of the Indian Penal Code. Before registering this crime, the informant filed a suit for declaration against the applicants in the City Civil Court, Mumbai. In the application for a temporary injunction, initially, the informant was granted *ad-interim* relief on 31 January 2024; however, this relief was vacated on 2 February 2024. By imposing the aforesaid condition, the Sessions Court appears to have imposed a condition irrelevant to the offence and in contrast to the scope of Section 438 of the Code of Criminal Procedure,

1973. In light of the above, this Court is inclined to delete condition No.2(iv) imposed by the Sessions Court on 10 May 2024 in Anticipatory Bail Application Nos.565 of 2024, 752 of 2024, and 760 of 2024, and is deleted accordingly.

6. The applications stand disposed of.

(R. N. Laddha, J.)