

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

ANTICIPATORY BAIL APPLICATION NO.28 OF 2024

Jikar Allarakha Saiyed & Ors.

.... Applicants

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Amit Desai, Senior Advocate a/w Gopalkrishna Shenoy i/b. Gaurav Chaubey, Advocate for Applicants.
- Ms. Pallavi N. Dabholkar, APP for the State/Respondent.
- Mr. H. S. Venegaonkar, PP for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 08th JANUARY, 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.33/2023, dated 09/10/2023, registered with Coastal Police Station, Moti Daman, under sections 420, 466, 477-A, 201, 120-B of the Indian Penal Code.
2. Heard Mr. Amit Desai, learned counsel for the Applicant and Ms. Pallavi N. Dabholkar, learned APP for the State.

3. The FIR is lodged by the Chief Officer of Daman Municipal Council. It pertains to the construction carried out by M/s Jai Enterprises at the land bearing survey No.4/1-A admeasuring 23,000 sq.mtrs. According to the prosecution case the present Applicants were the partners of the said enterprises. The FIR mentions that a fraudulent construction license purportedly issued in 1990 by Daman Municipal Council was a forged document. The land fell within the limits of a Grampanchayat and Daman Municipal Council could not have issued the construction license in the year 1990. Only in 2005 the said area of that particular land was brought within the Municipal limits of Daman Municipal Council. There are further allegations that one M.R.R. Nair had issued completion certificate in 2004 and backdated documents were created. Though it was not permissible, consecutive validations of construction permission were given for multiple times. The government officials were party to the conspiracy. It is further alleged that the building was constructed in a no development zone. The land came within that zone in 1991 and therefore

backdated documents were forged showing that the permissions were given prior to the land coming within the purview of no development zone. On this basis, the FIR is lodged.

4. Learned senior counsel appearing of the Applicants submitted that except the Applicant No.3, others are senior citizens. The Applicant No.2 is a lady. The issue raised in the FIR was considered by the Special Committee looking at the violation of the CRZ. This was done in the year 2005. At that time, no offence was found in respect of the said building. In the year 2015 also the police made enquiries regarding the same building and even then no offence was made out and hence was not registered. This is the third time that such complaint is made.

5. Learned Special PP seeks time as the Investigating Officer is not present today. He seeks adjournment to file affidavit-in-reply.

6. Considering this request, today I am adjourning the matter. Learned Senior Counsel appearing for the Applicants has made out a case for grant of ad-interim relief.

7. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.33/2023, dated 09/10/2023, registered with Coastal Police Station, Moti Daman, till the next date, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.
- (ii) This order shall operate till 21/02/2024.
- (iii) The Applicants shall cooperate with the investigation in the meantime.
- (iv) Stand over to 21/02/2024.

(SARANG V. KOTWAL, J.)