

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

ANTICIPATORY BAIL APPLICATION NO. 1586 OF 2024

Arvind Jagannath Rathi & Ors.

...Applicants

Versus

The State of Maharashtra

...Respondent

- Mr. Satyavrat P. Joshi i/b Mr. Yash G. Fadture, for Applicants.
- Mr. Tanveer Khan, APP for the State.
- Mr. Drupad Patil i/b Mr. Ashok Zope, for original complainant.
- Mr. Irfan Shaikh, EOW, Nashik City.

CORAM : MANISH PITALE, J.

DATE : 20th JUNE, 2024.

P. C. :

1. Heard, Mr. Satyavrat Joshi, learned counsel for the applicants, Mr. Tanveer Khan, learned APP for State and Mr. Drupad Patil, learned counsel having instructions to appear on behalf of the original complainant.

2. The applicants before this Court are three senior citizens, who are directors of a company called M/s. Rathi Builders Private Limited. They are constrained to approach this Court by way of the present application as they apprehend arrest in pursuance of notices received from the Police Inspector, Economic Offences Wing (EOW), Nashik City, in May and June, 2024.

3. Mr. Joshi, learned counsel for the applicants submits that the applicants have submitted their replies to the said notices, but, since they

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apprehend that they may be arrested in pursuance of such notices, initially they were constrained to approach the Sessions Court, but upon rejection of their application for anticipatory bail, they have rushed to this Court.

4. The learned counsel for the applicants submits that the disputes between the parties necessarily involve documentary material and the applicants are ready to produce all the documents required by the respondent No.1. It is submitted that they are also ready to cooperate with the enquiries being conducted by the respondent No.1 and that they would remain present before the Police Inspector, EOW, Nashik City, as and when called.

5. It is submitted that the dispute pertains to documents executed between the parties as far back as in 1999 and in a real sense the disputes are of civil and commercial nature. It is submitted that civil litigations are already pending between the parties with respect to the very same disputes and hence, setting the criminal law in motion is unjustified in the facts and circumstances of the present case.

6. It is brought to the notice of this Court that in the context of the disputes between the parties concerning land located in District Nashik, the complainant had filed a suit for specific performance against the applicants, which was decreed. The appeal filed by the applicants bearing First Appeal No.1567 of 2007, is pending before this Court, wherein on 14th June, 2010,

this Court passed an order directing the parties to maintain status-quo in respect of the subject plot.

7. It is further brought to the notice of this Court that the applicants had filed a suit for possession in respect of part of the land, which is subject matter of the dispute, wherein a counter claim was filed by the complainants and eventually the suit of the applicants was dismissed, while the counter claim was allowed. The appeal filed there against is also pending before this Court, although there is no interim order in the same.

8. It is further submitted that the complainants have alleged that there is discrepancy between the area of the land as projected by the applicants and that actual area of the subject land. In this regard also the learned counsel for the applicants sought to bring to the notice of this Court certain proceedings before the concerned authorities regarding measurement of the land.

9. In this light, it is submitted that since the applicants are ready to respond to the notice and place all the relevant documents before the EOW, Nashik City, and there is no apprehension of the applicants avoiding the process of law, this Court may consider granting relief to the applicants. It is emphasized that the three applicants are senior citizens, they are suffering from health issues and the relevant documents are also placed on record with

the present application.

10. On the other hand, Mr. Khan, learned APP submitted that the applicants merely sent their replies to the aforesaid notices and they have not appeared before the EOW, Nashik City, indicating that they are not cooperating. It is further submitted that the grievance raised by the complainants does show ingredients of offences that could be registered against the applicants.

11. Mr. Patil, learned counsel having instructions to appear on behalf of the complainant submits that although civil litigations are pending between the parties, since the applicants have stalled any attempt for final resolution of the disputes and they have also executed sale deed in respect of part of the land in respect of which they have no rights of ownership, the complainants have no alternative, but to put the criminal process in motion. It is submitted that the acts of the applicants clearly give rise to offences under the IPC.

12. This Court heard the learned counsel for the rival parties in the backdrop of the documents placed on record. As to whether any criminality can be attached to the acts of the applicants would be a matter for enquiry and investigation. This Court at this stage would not like to comment upon the same. Nonetheless, the voluminous documents on record do show that the seeds of the dispute between the parties were sowed in the year 1990 and that

civil litigations were initiated by the rival parties against each other, leading to decrees passed by the Civil Court, which have ended up in the form of appeals before this Court. The very nature of dispute indicates that it revolves around documentary material and if the applicants cooperate with the EOW, Nashi City, and appear before the said authority, it may not be necessary at this stage to apprehend them.

13. The documentary material on record shows that all the three applicants are senior citizens and they are suffering from health issues. The commercial and civil flavour of the disputes between the parties cannot be denied at this stage.

14. In view of the above, the application is allowed in the following terms:

(A) In the event, the applicants are arrested in pursuance of Notices dated 22nd May, 2024 and 05th June, 2024 and further notices that may be issued by Economic Offences Wing, Nashik City, they shall be released on bail, on furnishing P.R. bond of Rs.50,000/- each and one or more sureties in the like amount.

(B) The applicants shall appear before the Police Inspector, Economic Offences Wing, Nashik City, on 25th June,

2024, and thereafter, as and when required by the said authority.

- (C) The applicant shall cooperate with the aforesaid authority and produce all documents as demanded.

15. In the event, the applicants violate any of the aforesaid conditions, this Court may consider cancelling the present order.

(MANISH PITALE, J.)