

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2074 OF 2024

1. Abdul Rehaman Umer Shaikh
2. Shakeel Yousuf Sayyed
3. Amanat Jaffer Shaikh
4. Zoheb Javed Khan ... Applicants
Vs.
State of Maharashtra ... Respondent

Ms. Ankita Bamboli a/w. Ms. Priya Mehta for Applicants.
Mr. R. M. Pethe, APP for Respondent-State.
Mr. Kisan Rathod, PSI, Kondhwa Police Station, Pune City.

CORAM : MANISH PITALE, J.
DATE : AUGUST 08, 2024

P.C. :

. Heard Ms. Bamboli, learned counsel for the applicants and Mr. Pethe, learned APP for the respondent-State.

2. The applicants are apprehending arrest in connection with FIR No.0380 of 2024 dated 08.04.2024 registered with Kondhwa Police Station, District - Pune City, for offences under Sections 341, 452, 500 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR has been registered against the accused persons in the backdrop of disputes within a residential society. The informant is a former chairman of the society.

4. The learned counsel for the applicants submits that only the offence under Section 452 of the IPC is a non-bailable offence and according to her, ingredients of the said offence are not made out even if the statement of the informant, leading to registration of the FIR, is to be

taken into consideration. It is further submitted that the genesis is disputes between the members of the society as also the former office bearers and the current office bearers. It is brought to the notice of this Court that the applicant No.1 is about 85 years old, an advocate and the present chairman of the society. Applicant No.2 is a driver, who drives the van engaged by the society. Applicant No.3 is a co-opted member of the managing committee of the society and applicant No.4 is an estate manager working for the society. It is submitted that since the applicants are ready to co-operate with the investigation, this Court may consider allowing the present application.

5. On the other hand, the learned APP submits that the statement of the informant does indicate allegations against the accused of having unauthorizedly entered the office of the society as well as the house of one Sarfaraz, who is also a member of the said society. In that sense, it is submitted that the ingredients of offence are made out.

6. This Court has perused the statement of the informant, leading to registration of the FIR. The tenor of the statement itself indicates that the grievance of the informant emanates from *inter se* rivalries and disputes within the residential society. The informant is the former chairman of the society, while the applicant No.1 is the current chairman. Applicant No.1 is senior citizen, aged about 85 years. Applicant Nos.2 and 4 have been engaged for their services by the society and the applicant No.3 is a co-opted member of the managing committee of the society.

7. The allegation pertaining to the applicant Nos.2 and 4, having unauthorizedly entered the office of the society, is general in nature. There are no specifics, as it is stated that after the applicant No.1 took over as chairman of the society, the aforesaid applicant Nos.2 and 4 had indulged in such an act. The other incident pertaining to 06.04.2024 merely alleges that unknown persons entered into the house of Sarfaraz,

who is a member of the society and gave a letter allegedly given by the applicant No.1.

8. There is a substance in the contention raised on behalf of the applicants that such allegations *prima facie* would not constitute ingredients of offence under Section 452 of the IPC.

9. In any case, since the applicants have undertaken to co-operate with the investigation, this Court is of the opinion that the application deserves to be allowed.

10. Accordingly, the application is allowed in the following terms:-

- A. In the event the applicants are arrested in connection with FIR No.0380 of 2024 dated 08.04.2024 registered with Kondhwa Police Station, District - Pune City, they shall be released on bail on furnishing PR Bond of Rs.15,000/- [Rupees Fifteen Thousand only] each with one or two sureties in the like amount;
- B. The applicants shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 12.08.2024 and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation;
- C. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

11. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed

further, without being influenced by the observations made in this order.

12. The application is disposed of.

(MANISH PITALE, J.)

Minal Parab