

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

ANTICIPATORY BAIL APPLICATION NO. 2591 OF 2024

Jawahar Avinash Ujagare	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Satyavrat Joshi a/w Ms. Shivani Kondekar i/by Mr. Yash Fadtare for the Applicant.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. Amol Arun Shinde for Intervenor.

**CORAM: MANISH PITALE, J.
DATE : 25th SEPTEMBER 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State, as also the learned counsel having instructions to appear for the intervenor/Nashik Diocesan Council.

2. This Court is informed that intervention application has been filed on behalf of the said entity.

3. The applicant is apprehending arrest in connection with FIR No.0220 of 2024 dated 26th July 2024 registered at Mumbai Naka Police Station, Dist. Nashik, for offences under Sections 409, 420, 465, 468 and 120-B of the Indian Penal Code, 1860 (IPC).

4. The informant in the present case is the sub-Registrar of Assurances, Nashik. The FIR is registered on the basis that while

the applicant representing a company, executed a lease deed in favour of co-accused person, it came to light on the basis of a subsequent complaint filed on behalf of the Maharashtra Seva Sangh, Nashik, that an earlier document had already been registered in respect of the property that was subject matter of the lease deed executed on behalf of the company in favour of the co-accused licensee. On the basis of the information given by the sub-Registrar, the Investigating Authority registered the said offences.

5. The learned counsel for the applicant referred to a number of documents on record to indicate that there is a long-standing dispute between the company, of which the applicant is a Director and a Trust which appears to be having a similar name, in respect of properties in Nashik. Various proceedings have been initiated against each other by the aforesaid Nashik Diocesan Trust Association Pvt. Ltd. and the Nashik Diocesan Council, which intends to intervene in the present proceedings. It is submitted by the learned counsel for the applicant that while allegations have been made by the said parties against each other and there is a serious dispute with regard to the right, title and ownership of certain properties in and around Nashik, the sub-Registrar of Assurances could not have gone ahead to cause the subject FIR to be registered in the facts and circumstances of the present case. It is submitted that in such circumstances, ingredients of the offences registered against the applicant and co-accused persons are not made out. This Court is informed that the co-accused person, who

is the licensee, has been granted anticipatory bail by the Sessions Court, but the applicant is not claiming relief on the ground of parity.

6. The learned APP, on the other hand, has opposed the contentions raised on behalf of the applicant. Reference is made to certain documents on record to indicate that the applicant, despite having full knowledge of previous proceedings, went ahead to deceive the sub-Registrar, in order to get the lease deed registered. It is submitted that the investigation is still on going and therefore, relief may not be granted.

7. The learned counsel, who has instructions to appear on behalf of the proposed intervenor, also opposed the relief prayed for in the present application.

8. Considering the nature of submissions made by the rival parties, it would be appropriate that an opportunity is granted to the learned APP to produce the investigation papers and also to the intervenor to place documents on record. But, at this stage, this Court is of the opinion that interim relief can be granted.

9. The documents on record indeed show that disputes between the aforesaid two parties are pending, including a number of proceedings before either the Civil Court or competent authorities. *Prima facie*, it appears that both the parties are raising rival claims to properties in and around Nashik. Such pending

proceedings further indicate that the nature of dispute could be said to be of civil nature and it will have to be examined as to whether criminality can be foisted on the applicant in the present case. It is also evident from the nature of allegations that the evidence would be documentary. In fact, in the order dated 4th September 2024, whereby the Sessions Court granted relief of anticipatory bail to the co-accused licensee, it is recorded that most of the documents pertaining to the investigation are in the custody of the concerned authority. Nothing prevents the Investigating Officer to proceed to take possession of such documents, in order to undertake effective investigation. Hence, interim order deserves to be granted in the present application.

10. In view of the above, the following interim order is passed :

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No. 0220 of 2024 dated 26th July 2024 registered at Mumbai Naka Police Station, Dist. Nashik, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and one or two sureties in the like amount.
- (b) The applicant shall remain present before the Investigating Officer on 27th and 28th September 2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer. The applicant shall cooperate with the investigation.
- (c) The applicant shall not tamper with the evidence of the

prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

11. In the event, the applicant violates any of the aforesaid conditions, the order passed today would be recalled.

12. Needless to say, observations made in the present order are limited to considering the question of granting interim relief in the present application.

13. List this application for further consideration on 24th October 2024, to be included in the supplementary list.

MANISH PITALE, J.