

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3566 OF 2024

Shashikant Jagshi Vora & Anr ...Applicants

Versus

The State of Maharashtra ...Respondent

Mr. Aabad Ponda, Senior Advocate, a/w Inderpal B. Singh, Ankit Tandon, Sanjay Ranjane, Soyal Khan, Advocate for Applicants.

Mr. Ashok Gawai, APP for Respondent.

Mr. Sandeep Karnik, a/w Yash Oza, for Applicant-First Informant.

Mr. Krishna Majithia, (through VC) present.

CORAM: SOMASEKHAR SUNDARESAN, J.

**DATE : DECEMBER 26, 2024
(VACATION COURT)**

P. C.

1. This Application seeks protection from arrest in connection with the FIR No.295 of 2024 dated October 20, 2024 in respect of alleged offences against Sections 406, 465, 467, 468, 471 and 34 of the Indian Penal Code. The issue at hand relates to dealings with the properties of a trust, of which the Applicants and the Informant are purported to be trustees. It is submitted by the Learned Senior Counsel on behalf of the Applicants that the controversy at hand is subject matter of proceedings before the Learned Charity Commissioner, which, in turn, was pursuant to the order dated April 2, 2024 passed by

a Learned Single Judge of this Court directing that the change report relating to one of the trustees be considered and dealt with by the Assistant Charity Commissioner in accordance with law.

2. It is a common ground that the consideration of the change report and adjudication of the same is pending before the Learned Assistant Charity Commissioner. It is on this premise that the Learned Senior Counsel for the Applicants submits that as cautioned by the Supreme Court, Criminal Courts should be reluctant to permit arrest of the Accused when the very same parties are involved in civil litigation over the same subject matter.

3. On the other hand, Learned Counsel for the Informant, who is also trustee of the same trust seeks to rely on another judgment of the Supreme Court to state that merely because proceedings of a civil nature are pending, there ought not to be automatic protection from arrest, particularly in pre-arrest bail jurisprudence.

4. Be that as it may, since this is a Vacation Bench, and the rejection of the anticipatory bail has been *inter alia* on the premise that the original documents have not been produced by the Applicants, the Learned Senior Counsel for the Applicants submits that they would be willing to submit all the original documents, for investigation in these proceedings.

5. Learned Senior Counsel for the Applicants states that he has instructions to tender the original documents including the lease deed executed by him with Mr. Girish Mokashi purportedly pursuant to the authorization granted at a meeting of the Board of Trustees on August 15, 2023, and authority granted by the Board of Trustees to execute the lease deed. Let all these documents be submitted to the Investigating Officer no later than December 30, 2024. Should the Investigating Officer require any further documents or supplementary material arising from a perusal of what is submitted, he shall be at liberty to demand the same and the Applicants shall furnish the same to the Investigating Officer. On these terms, the Applicants are protected from arrest until consideration of this Application on merits by the Regular Bench, upon reopening.

6. Stand over for such consideration by the Regular Bench to ***January 9, 2025***. It is made clear that nothing contained in this order is an expression of an opinion on merits one way or the other.

7. All actions required to be taken pursuant to this order shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]