

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 730 OF 2024

Mahendra Shivaji Gunjal

.. Applicant

Versus

State Of Maharashtra

.. Respondent

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- Mr. Sanjeev Kumar Bapu Deore, for Applicant.
- Mr. Mayur Sonavane, APP for the State.
- Mr. Nana S. Landge, PSI, Khadakpada Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 06, 2025

P.C.:

1. Heard Mr. Deore, learned Advocate for Applicant and Mr. Sonavane, learned APP for the State.

2. This Court has already applied its mind while granting interim order where a detailed order is passed on 15th March, 2024. Thereafter, the matter has been heard on several occasions and several orders have been passed. There is already a civil dispute between the parties. The dispute between the parties pertains to redevelopment. Applicant before me is one of the partners of the partnership firm who has been appointed for redevelopment. He is seeking Anticipatory Bail in view of apprehension that he might be arrested in the FIR lodged by one of the member of the Society registered under CR No. 518 of 2023 under Section 420 and 406 r/w 34 of the Indian Penal Code, 1860.

3. It is *prima facie* seen that society decided to redevelop the property for which contract of redevelopment was given to the firm known as M/s. Akriti Housing Partnership Firm of which Applicant is one of the partners. Mr. Deore, learned Advocate appearing for the Applicant would submit that the Applicant has invested a substantial amount of Rs. 4.4 crores in the present project and in view of the stagnancy of the project nothing is progressing so far. On the opposite side the grievance of the complainant as can be seen from the FIR is with respect of non receipt of transit rent from the developer as also because they are aggrieved because the members of society have paid additional amount for securing additional built up area and the project is stalled.

4. *Prima facie* I find that since the matter is pending before the RERA as also in view of the fact that the redevelopment is required to be carried out by the partnership firm, merely because the liability of the Applicant is joint and several under Section 25 of the Partnership Act, whether he can be proceeded with is the question before me.

5. In that view of the matter and considering the order dated 15th March, 2024, I do not see any reason as to why this Anticipatory Bail Application is still pending. Applicant has admittedly invested a substantial amount. This Court cannot be treated by the Society as a Recovery Court. Society Members' remedy in such matters lie elsewhere. Hence, the Anticipatory Bail Application stands allowed in

terms of prayer Clause A.

ORDER

- (i) In the event of the arrest, the Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 30,000/- with one or two sureties in the like amount.
- (ii) Applicant shall report to the concerned Police Station, once every month on the first Monday of the month between 10.00 a.m. to 12:00 p.m.;
- (iii) Applicant shall not influence the witnesses or tamper with the evidence in any manner;
- (iv) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time, as applicable; and
- (v) If there is breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the applicant's bail.

6. In view of the above order, Intervention Application, if any filed, also stands disposed as none is present for the Intervenor.

7. The Application stands allowed in aforesaid terms and accordingly disposed.

[MILIND N. JADHAV, J.]