

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1122 OF 2024**

Nirav Ajay Thaker & Ors.

...Applicants

Versus

State of Maharashtra & Anr.

...Respondents

Mr. K. Holambe Patil a/w K. K. Holambe Patil and Vishal Shirsat for the Applicants.

Mr. Kiran Shinde, APP for the State.

Mr. K. R. Tiwari a/w Rakesh Singh i/by K. R. Tiwari & Co. for Respondent No.2.

Mr. Pankaj Giri, PI and Mr. Ravindra Chavan, PSI, Kandivali Police Station are present.

CORAM : ADVAIT M. SETHNA, J.

DATE : 6 OCTOBER 2025

PC.:-

1. This is an Application filed by the Applicants under Section 438 of the Code of Criminal Procedure for seeking pre arrest/anticipatory bail. The proceedings are in connection with CR No.29 of 2023. The FIR is registered on 14 January 2023 by the Kandivali (West) Police Station, Brihanmumbai City for alleged offences under Sections 379, 420, 427, 452 and 506 read with Section 34 of the Indian Penal Code, 1860 (“**IPC**”).

2. Briefly, the case of the prosecution as stated in the FIR is that when the complainant went to his native place due to lockdown, in the year 2021 and when he returned to Mumbai, it was noticed by him that his Flour Mill was illegally demolished and the material inside the same was stolen.

The Applicants were partners of the firm entrusted with the development of the slum area where the flour mill of the Informant. The Applicant were involved in the demolition of the flour mill where a building was constructed and thus the Informant was cheated and defrauded. In such circumstances, on the basis of the complaint of the Informant, the FIR was registered.

3. Heard learned counsel for the parties and with their assistance, the Court has perused the record.

4. At the very outset, the Court's attentions was invited to an order dated 24 April 2024, passed by this Court after hearing the parties. The Court was pleased to grant interim protection to the Applicants in terms of the order dated 24 April 2024 *inter alia* imposing certain terms and conditions on the Applicant. Such protection continues until date, which fact is not disputed by the learned APP.

5. Mr. Holambe Patil, learned counsel for the Applicants would first submit that the Applicants have complied with all the terms and conditions set out in the said interim order. He would next submit that there is a dispute between the complainant/informant and the Applicants which is purely civil in nature. In this regard he has twofold submissions. Firstly, he would submit that the dispute between the landlord and tenant i.e. between the informant and his landlord in respect of the same subject property i.e. the flour mill was agitated before the Deputy Collector by the

informant. An order has been passed in these proceedings by the said Deputy Collector. There is another set of proceedings which is in the nature of a Civil Suit being Special Civil Suit No.788 of 2017 before the City Civil Court, Goregaon. This is filed by the Informant against the present Applicant *inter alia* directing the Applicant to provide/execute Permanent Alternate Accommodation Agreement (“PAAA”) in lieu of the said demolished flour mill. Certain other prayers/reliefs have also been sought in the said plaint which revolve around the flour mill being the subject matter of the present dispute. He would thus submit that the nature of the above proceedings would clearly indicate that these are civil disputes and the informant is attempting to give it a criminal colour which is not permissible. In view of such submissions, according to him, as the Applicants have complied with the interim order dated 24 April 2024 and the conditions imposed therein, this is a fit case to grant anticipatory bail.

6. Mr. Shinde, learned APP would on instructions submit that the Applicants have complied with the terms and conditions imposed in the interim order of this Court dated 24 April 2024, more particularly as recorded in paragraph 8 of the said order. He would further on instructions submit that the charge-sheet is in the process of being filed and in any event will be filed within a period of four weeks from today.

7. Mr. Tiwari, learned counsel for the Informant would vehemently oppose the grant of anticipatory bail to the Applicants.

According to him, if such indulgence is granted, this would tantamount to abuse of the legal process as the informant for no fault of his is being deprived of the possession and ownership of the said flour mill which legally belongs to him. It is only because of the misdeeds of the Applicants that the informant is illegally deprived of the said flour mill. He would also submit that some sort of deterrence, inter alia punishment is required to be given in such cases and this is one such case. He would fairly submit that as far as the proceedings before the Deputy Collector are concerned those resulted in an order passed against the informant which was appealed before the Grievance Redressal Committee. Such order has also been challenged in Writ Petition No.647 of 2025 filed on 7 February 2025 which is pending before this Court.

8. Having heard the above submissions, in my *prima facie* opinion this is a case where the dispute entails all the trappings of a civil nature. This is for reasons more than one. Firstly, there are proceedings which were filed in respect of the same disputed flour mill before the Deputy Collector. Subsequently, there is also a Suit filed which is pending before the Civil Court, with reliefs relating to the said flour mill. Also, as noted above a Writ Petition is also pending in this Court. This would clearly go to show that there are civil proceedings which are filed and pending subjudice before this Court in respect of the same disputed property. It is settled law that when such is a situation and that a dispute has all the trappings of civil

nature, they ought not to be given a criminal colour. This in fact would be an abuse of the process of law.

9. The Court is also informed by the learned APP that the conditions imposed in the order dated 24 April 2024 have been duly complied with. The Applicants appear to have cooperated with the investigation pursuant to the order dated 24 April 2024. Now a charge-sheet is also in the process of being filed, which would be done within a period of four weeks as observed above. There is nothing adverse reported against the Applicants by the prosecution. Their presence can be secured at the time of trial.

10. Considering that there are no aggravating factors that would justify the detention of the Applicants, at this stage, in the given factual complexion, a prima facie case is made out by the Applicants for grant of the anticipatory bail. Further, in my view, in the given facts, custodial interrogation of the Applicants would not be warranted, at this stage.

11. For all of the above reasons, in my opinion, the following order would meet the ends of justice:-

ORDER

- (i) Interim order of this Court dated 24 April 2024 stands confirmed.
- (ii) In the event of arrest of the Applicants in connection with CR No.29 of 2023 registered with Kandivali (West) Police

Station, Brihanmumbai City for the offences punishable under Sections 379, 420, 427, 452 and 506 read with Section 34 of the IPC, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000 (Rupees Thirty Thousand Only) each with one or more sureties in the like amount.

- (iii) The Applicants shall cooperate with the investigation and shall attend the concerned police station on every second and fourth Saturday at 11.30 a.m. until filing of the charge-sheet.
- (iv) The Applicants shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details, the same shall be immediately intimated to the concerned police station.
- (v) The Applicant shall obtain appropriate orders of the competent Court before leaving the State of Maharashtra.
- (vi) The Applicants shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer.
- (vii) The Applicants shall not tamper with the prosecution

evidence and shall not contact or influence the complainant or any witness in any manner whatsoever.

12. Needless to mention that the observations made above are *prima facie* for the purposes of adjudicating this Application.

13. The Anticipatory Bail Application is **Allowed/Disposed Of** in the above terms.

[ADVAIT M. SETHNA, J.]