

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 853 OF 2025

RUPESH WAMAN PATIL

..... APPLICANT

VERSUS

STATE OF MAHARASHTRA

..... RESPONDENT

Mr. Ashok M.Saraogi for the Applicant.

Mr. Avinash A. Naik, A.P.P. for the State.

Mr. Ravindra Kadam, P.S.I., Vasai Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : 4th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Crime No. 0159/2024 dated 9th July, 2024 registered with Vasai Police Station, for the offence punishable under Sections 420, 471, 468, 467, 465, 448 r/w. 34 of the Indian Penal Code, 1860.

2. As per the complaint filed, FIR has been lodged. The role of the present applicant is mentioned in the FIR.

3. It is the case of the prosecution that before present FIR being

lodged, the applicant has already filed a suit for injunction on 13th March, 2024. He submitted that at the most, the suit for eviction can be filed against the present applicant. However, there cannot be an FIR for recovery of suit. Admittedly, Mr.Kothmire had executed a leave and licence agreement with Mr.Amrut Jalappa Suwarna. The said Mr.Amrut Jalappa Suwarna transferred the property to the applicant. At the most, this is the case of sub-letting. There is no criminality involved in the present case. The custody of the present applicant is not necessary. The applicant is ready to co-operate.

4. The learned A.P.P. opposed this application and submitted that the applicant is trying to take advantage of the fact that the current market rate of the suit premises has increased. The applicant is harassing the first informant who is old lady of 70 years of age. The applicant has forged the document to procure electricity bill in his name. The offence is serious in nature. The custodial interrogation of the present applicant is necessary.

5. I have heard learned counsel for the applicant and the learned A.P.P. The primary dispute between the first informant and the applicant appears to be one of the landlord and of sub-tenant/encroacher. The first informant's husband had executed a

tenancy agreement with one Mr.Amrut Jalappa Suwarna in the year 1993 for Room No.2 and Room No.3. There is an allegation that in the year 2016, the son of the present applicant went to inspect the suit premises. At that time, the said Mr.Amrut Jalappa Suwarna informed that it is difficult for them to pay the rent. Thereafter, on 20th August, 2023, the son of the first informant received a telephonic call from one Mr.Rais Habib Khan informing that the daughter of Mr.Amrut Jalappa Suwarna had given him the possession of the suit premises. On receiving the information, the son of the first informant reached the suit premises when the said Mr.Rais Khan called upon the present applicant. When the present applicant arrived at the site of the suit premises, the first informant's son realized that the electricity bills are in the name of the applicant and the present applicant informed the son of the first informant that the landlord can get 60% of the share and the tenant get 40% of the share of the tenanted premises. He further informed that the late Mr.Amrut Jalappa Suwarna had executed an agreement in favour of the present applicant.

6. Considering the contents of the FIR, it seems that the dispute is between the landlord and alleged sub-tenant/encroacher. A suit is already filed by the present applicant against the first informant in the

Civil Court. Admittedly, if the present applicant is the landlord and the owner of the suit premises, he can always file a suit for eviction before appropriate Court. As regards the allegation of fraudulently obtaining the electricity meter by the applicant is concerned, the same can be a matter of trial. The custody of the present applicant at this *prima facie* stage would not be necessary. Therefore, according to me, the present anticipatory bail application can be granted by putting stringent conditions. Hence, the following order :-

ORDER

- (a) **The anticipatory bail application is allowed.**
- (b) In the event of arrest in connection with Crime No. 0159/2024 dated 9th July, 2024 registered with Vasai Police Station, for the offence punishable under Sections 420, 471, 468, 467, 465, 448 r/w. 34 of the Indian Penal Code, 1860, the applicant shall be released on bail, on furnishing PR. bonds to the extent of Rs.30,000/- with two or more sureties of the like amount.
- (c) The applicant shall co-operate with the

investigation and attend and meet the Investigating Officer of the concerned Police Station on 10th April 2025 and 11th April 2025 between 11:00 a.m. to 1:00 p.m. and thereafter as and when called.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence. The applicant is restrained from creating any third party right with regard to the suit premises and/or damage to the suit premises and/or change the form of the suit premises without permission of the first informant.

(e) The applicant shall furnish details of his residential addresses, contact numbers and e-mail addresses to the Investigating Officer.

7. Needless to say, violation of any of the aforesaid conditions

would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

8. The anticipatory bail application is disposed of.

[RAJESH S. PATIL, J.]