

Nikita

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

ANTICIPATORY BAIL APPLICATION NO.1467 OF 2025

1. Amit Sharadchandra Adatiya

2. Ravi Sharadchandra Adatiya

... Applicants

V/s.

Union of India

... Respondent

Mr. Abad Ponda, Senior Advocate a/w Mr. Bhomesh Bellam for the Applicants.

Mr. Harsh Dedhia i/b Mr. Hiten Venegavkar for the Respondent (Through V. C.) for the Respondent.

Ms. Rashmi Tendulkar, APP for the State.

CORAM : ASHWIN D. BHOBE, J.

DATED : 3RD JUNE, 2025

P.C.:

1. Heard Mr. Abad Ponda, learned Senior Advocate along with Mr. Bhomesh Bellam for the Applicants, Ms. Rashmi Tendulkar, learned APP for the State. Mr. Harsh Dedhia appears and states that he has been instructed by the Special Standing Counsel Mr. Hiten Venegavkar to appear in the present matter.

2. By the present Application filed under Section 482 of Bharatiya Nagarika Suraksha Sanhita, 2023 (BNSS for short) the Applicants are before this Court seeking enlargement of the Applicants on Anticipatory Bail in connection with the Crime No.08 of 2025, registered with the Diu Police Station, Diu, for the

offences punishable under Sections 406, 408, 409, 420, 423, 471, 465, 468, 199 and 120-B of the Indian Penal Code, 1860.

3. Case of the prosecution is that in the year 1988, the Collector of Diu without any authority/unauthorizedly allotted a land in Daman by invoking provisions of Section 14 of the Diu Land Revenue Code, 1968, to one Mr. Abdul Habib Vali Mohamad. According to the case of prosecution, the said allotment of a huge tract of land admeasuring 73627 Sq. Mtrs. (approximately 18 acres) situated at Ghoghla, Diu, is subject matter of the said allotment. Present crime is registered in the year 2025 on the basis of the complaint made by the Revenue Authorities against the Deputy Collector, Mr. Abdul Habib Vali Mohamad and the Applicants herein who are the subsequent purchasers.

4. Anticipatory Bail Application bearing Criminal MA No.03 of 2025 filed by the Applicants was dismissed by the learned Sessions Judge, Diu, at Daman by order dated 14.05.2025.

5. Mr. Abad Ponda, learned Senior Counsel for the Applicants submits that the crime as registered in the year 2025, is an act to defeat the civil rights of the original allottee Mr. Abdul Habib Vali Mohamad. He submits that the allotment order dated 08.08.1988 was issued by the Collector after following the due procedure of law. He submits that the Revenue Authorities in the year 1999 had issued a show cause notice to the said allottee Mr. Abdul Habib Vali Mohamad seeking to revoke the allotment made in the year 1988. He submits that the said show cause notice was questioned by Mr. Abdul Habib Vali Mohamad before the Civil Court. He states that

the learned Civil Court had decreed the suit filed by Mr. Abdul Habib Vali Mohamad, appeal filed against the said decree by the Revenue Authorities was dismissed. He states that Second Appeal No.1027 of 2012 preferred by the said Revenue Authorities was also rejected by this Court. He submits that the Revenue Authorities are aware and as a matter of fact parties to the said civil proceedings. He states that the Revenue Authorities have questioned the order of this Court passed in Second Appeal before the Hon'ble Supreme Court and the said proceedings before the Hon'ble Supreme Court are pending. He submits that even a suit for specific performance filed by the Applicants against Mr. Abdul Habib Vali Mohamad was decreed and deed of conveyance dated 30.09.2003 was executed in favour of the Applicants. He submits that the subject matter of the crime is a civil dispute and at any rate there is no criminality attached, warranting any criminal action. He further states that custodial interrogation of the Applicants, who are *bona fide* purchasers, is not warranted. Mr. Aabad Ponda was at pains to submit that the offence registered against the Applicants is an abuse of process of law.

6. Mr. Harsh Dedhia on instruction of Mr. Hiten Venegavkar submits that the aforesaid crime is a serious offence as it pertains to a large tract of land. He submits that criminal investigation is required to ascertain the *modus operandi* adopted by the Government officials in transferring the said land. He does not dispute about the filing of the suit, the decree passed by the Civil Court, appeal filed by the Revenue being dismissed up to this Court. He however states that the issue is still pending before the

Hon'ble Supreme Court.

7. I have given due consideration to the arguments advanced by the learned Advocates and gone through the records with the able assistance of the Advocates.

8. From the nature of allegations in the crime, it *prima facie* appears that the subject matter of the crime pertains to a civil dispute. Admittedly, the allottee Mr. Abdul Habib Vali Mohamad has succeeded in the civil suit, which was filed questioning the action of the Revenue Authorities in issuing show cause notice dated 15.02.1999 to Mr. Abdul Habib Vali Mohamad, by which the Revenue Authorities had sought to review the allotment order dated 08.08.1988. Exhibit-L Colly at page No.137 of the petition paper book is the order dated 05.12.2016 passed by this Court in Second Appeal No.1027 of 2012. Paragraph Nos.13 and 14 of the said order is transcribed herein below:

“13. The learned counsel for the appellants sought to contend before this court that such permission was granted by the Government. It is not in dispute that no such alleged permission alleged to have been granted by the Government was produced before the learned trial judge or even before the first appellate court. The Government also could not produce any justification and material which was considered by the collector before issuing any such show cause notice to the plaintiff. Learned counsel could not dispute that it was not the case of the Government that any fraud was committed by the plaintiff upon the Government in obtaining the order dated 8th August, 1988 passed by the Collector. (emphasis supplied).

14. It is not in dispute that during the period of 10 years when the collector issued a show cause notice, several steps were already taken by the plaintiff in respect of the suit property. The Government itself had granted permission to the plaintiff to register conveyance in respect of the suit property. The learned trial judge has considered all these aspects in a great detail in the impugned judgment and decree and has

rightly passed a decree on 18th July, 2003.”

9. No doubt, the issue is still pending before the Hon’ble Supreme Court.

10. Mr. Aabad Ponda, learned Senior Counsel appearing for the Applicants states that the Applicants had filed a Special Civil Suit No. 4 of 2001, before the Court of the Civil Judge at Diu, against Mr. Abdul Habib Vali Mohamad seeking specific performance of the agreement. The said suit was decreed on 12.06.2023. He further states that the deed of conveyance in respect of the subject property was executed on 30.09.2003.

11. Considering the above, more so the decrees/orders passed in the civil suit/appeal, wherein Competent Civil Court has considered the issue of allotment and has maintained the allotment order dated 08.08.1988, custodial interrogation of the Applicants is not warranted.

12. In view of the above, I find this to be a fit case to enlarge the Applicants on pre-arrest bail, however subject to following condition:

a) In the event of arrest of the Applicants in Crime No.08 of 2025, the Applicants shall be released, upon each of the Applicant furnishing a PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

b) The Applicants shall appear and report before the Investigation Officer, Diu Police Station, Diu, on 10.06.2025 from 10.00 am to 1.00 pm and thereafter, as and when as

required by the Investigation Officer Diu Police Station, Diu.

c) The Applicants shall co-operate with the Investigation Officer in the investigation.

d) The Applicants shall not interfere or influence any of the witnesses or tamper with the evidence.

12. The Anticipatory Bail Application No. 1467 of 2025 is disposed off in the above said terms.

(ASHWIN D. BHOBE, J.)