

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2523 OF 2022

Jaydeep Suryakant Gadkari .. Applicant
Versus
State of Maharashtra .. Respondent

WITH
INTERIM APPLICATION NO. 49 OF 2025
IN
ANTICIPATORY BAIL APPLICATION NO. 2523 OF 2022

Asavari Vitthal Otawkar and Ors. .. Applicants
Versus
State of Maharashtra and Anr. .. Respondents

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- Mr. Manoj Harit i/by Manoj Harit & Co. for Applicant.
- Mr.C.K.Talekar, a/w Mr. Rohit Rajbhar, Advocates for Intervenor.
- Mr. Y.Y. Dabke, APP for State.
- PI – Kiran Unde, Chembur Police Station, Mumbai, present.

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CORAM : MILIND N. JADHAV, J.
DATE : JULY 28, 2025

P.C.:

1. Heard Mr. Harit, learned Advocate for Applicant; Mr. Talekar, learned Advocate for Intervenor and Mr. Dabke, learned APP for State.

2. Anticipatory Bail Application No.2523 of 2022 is filed by Jaydeep Suryakant Gadkari – Applicant, arraigned as Accused No.1 alongwith his wife Mangesha Jaydeep Gadkari, arraigned as Accused No.2. Both Accused persons filed Anticipatory Bail Application No.1735 of 2022 in CR. No.5 of 2020 filed by First Informant – Sameer

Arvind Thakker. By order dated 07.09.2022, Anticipatory Bail Application No.1735 of 2022 was partly allowed granting Anticipatory Bail to Accused No.2 - Mangesha Jaydeep Gadkari whereas qua the Applicant – Accused No.1, it was rejected.

3. Being aggrieved, on 12.09.2023, Applicant filed Anticipatory Bail Application No.2523 of 2022 in this Court. It is seen that First - Informant filed Interim Application No.3094 of 2022 in the Anticipatory Bail Application of Applicant seeking certain reliefs. Also one Vitthal Otawkar being aggrieved, filed an Intervention Application No.4216 of 2022 whereas one Asavari Vitthal Otawkar alongwith members of the Otawkar family filed Intervention Application No.49 of 2025. By order dated 22.11.2024, Advocate for Applicant withdrawn the Interim Application No.4216 of 2022.

4. On 20.06.2025, after hearing Mr. Harit, learned Advocate for Applicant the following order was passed:-

“1. Heard Mr. Harit, learned Advocate for Applicant; Mr. Jain, learned Advocate for Intervenor and Mr. Dabke, learned APP for State.

2. This is a group of three proceedings. Anticipatory Bail Application No.2523 of 2022 is filed seeking anticipatory bail. Applicant is protected by an interim order.

INTERIM APPLICATION NO.3094 OF 2022:

3. First Informant – Samir Thakkar has filed Interim Application No.3094 of 2022 seeking certain reliefs. However, when the matter is called out, he is not present in the Court today to prosecute his case.

4. Mr. Harit, learned Advocate for Applicant in Anticipatory Bail Application would inform Court that dispute with the First

Informant – Samir Talekar and Applicant has already been settled by virtue of consent terms having been filed before the Division Bench of this Court in Contempt Petition No.20/2016 in Suit No.887/2014 by order dated 11th October, 2024. He would submit that in that view of the matter nothing survives in the matter insofar as grievance of First Informant - Complainant is concerned. He would submit that, that is the reason why First Informant is not present today to prosecute his Interim Application. Copy of the consent terms between First Informant and Applicant dated 11th October, 2024 passed by Division Bench of this Court is already placed on record.

5. In that view of the matter and considering the above, Interim Application No.3094 of 2022 stands disposed as infructuous.

INTERIM APPLICATION NO.49 OF 2025:

6. Interim Application No.49 of 2025 is filed by Asavari Vitthal Otawkar and Ors. seeking intervention in the Anticipatory Bail Application. Learned holding Advocate would inform the Court that Advocate Mr.Talekar who is 72 years old appears for Applicant - Asavari Vitthal Otawkar and Ors. He would submit that she has a grievance against the Applicant who is the developer. According to Mr. Harit, learned Advocate for Applicant – Developer the said - Asavari Vitthal Otawkar and Ors. have already approached RERA with an identical complaint which is the subject matter of their Interim Application and have procured an order dated 3rd April, 2025, copy of which is handed over to Mr.Jain, holding Advocate for Mr. Talekar. He is directed to hand over the same to Mr. Talekar.

7. In view of the above observations which are duly supported by orders and also confirmed by Mr.Dabke, learned APP for State. The First Informant has ironed out his disputes with Applicant developer which no longer prevail. Present Anticipatory Bail Application therefore has to be allowed in accordance with law.

8. Be that as it may, if the Otawkars have any grievance they will have to consider seeking appropriate relief in the appropriate forum in view of the order dated 3rd April, 2025 passed by RERA, copy of which is handed over to Mr. Jain in Court today. In my prima facie opinion, Interim Application No.49 of 2025 is not maintainable at all. However, since request is made by Mr. Jain to hear Mr. Talekar and to enable him to address the Court, matter is adjourned for the next date. It is clarified that if Mr. Talekar is unable to come to the Court on the next date, he is requested to appear through VC.

9. Stand over to 4th July, 2025. To be listed under the caption ‘For Passing Order’ in Anticipatory Bail Application No.2523 of 2022 and Interim Application No.49 of 2025.

10. Interim Application No.3094 of 2022 is disposed.”

5. Matters are listed before me today for further passing of orders. On the previous date i.e. on 20.06.2025, Interim Application No.3094 of 2022 was disposed of by this Court. This was filed by First – Informant/Complainant in CR. No.05 of 2020. By noting that by virtue of Consent Terms having been filed before the Division Bench of this Court in Contempt Petition No.20 of 2016 in Suit No.887 of 2014, the dispute between First – Informant/Complainant and Applicant was settled. Copy of Consent Terms dated 11.10.2024 was placed on record by Mr. Harit, learned Advocate for Applicant. Accordingly, on the previous date, Interim Application No.3094 of 2022 filed by the First - Informant was disposed.

6. Mr. Dabke, learned APP appearing for Respondent – State confirms the above development. If that be the case then the Applicant has made out a *prima facie* case for grant of Anticipatory Bail. In that view of the mater, Anticipatory Bail Application No.2523 of 2022 is allowed subject to the following terms and conditions:-

(i) In the event of the arrest of Applicant in C.R. No.5 of 2020 registered with Govandi Police Station, Applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) Applicant shall report to the Investigating Officer at

concerned Police Station as and when called for by the Investigating Officer for investigation;

- (iii) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within one week from today;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (v) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence or create any impediment or trouble in respect of the investigation;
- (vi) It is directed that Applicant shall extend complete cooperation in the investigation of the instant case; and
- (vii) Any infraction of the conditions shall entail revocation of this order.

7. Anticipatory Bail Application stands allowed and disposed.

INTERIM APPLICATION NO.49 OF 2025:

8. On the previous date i.e. 20.06.2025, this Court after hearing Mr. Harit, learned Advocate appearing for Applicant – Developer and Mr. Dabke, learned APP, noted that Otawkar family members including Applicants in Interim Application have filed proceedings before the appropriate forum i.e. RERA Authority and obtained an order dated 03.04.2025, a copy of which is handed over to the holding Advocate for Applicants. The said order was also confirmed as having been handed over by Mr. Dabke, learned APP. Hence, this Court observed that no further orders can be passed in Interim Application filed by Ms. Asavari Vitthal Otawkar and others, since they have already taken steps before the Statutory Authority – RERA to address their grievances.

9. Mr. Talekar appears for the Intervenor in Interim Application No.49/2025. He confirms the above position. He would submit that just as the Accused person settled with the first informant, he should be directed by the Court to consider settlement with the Intervenor also who have suffered immensely at the hands of the Accused-Developer despite making substantial investments. Mr. Talekar may be right in his submissions regarding the travails of his clients / Intervenor, but once they have approached the statutory Authority and obtained the order dated 03.04.2025 for resolving their complaint / grievances, their submissions cannot be countenanced in

the present Anticipatory Bail Application filed by Applicant. Keeping all contentions of the Applicant in I.A.No.49/2025 open to be agitated in the appropriate forum, the Interim Application is dismissed.

10. Liberty is granted to the Applicants to take steps available to them in law for redressal of their grievances before the appropriate and competent Authority / Forum / Court, strictly in accordance with law. Interim Application No.49 of 2025 is disposed as dismissed.

11. In view of the above order, Anticipatory Bail Application No.2523 of 2022 stands allowed and disposed. Interim Application No. 49 of 2025 is disposed.

P.R. Rajput

[MILIND N. JADHAV, J.]

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