

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

**ANTICIPATORY BAIL APPLICATION NO.1017 OF 2024**

Dinesh Shyamu Prajapati .... Applicant

versus

The State of Maharashtra .... Respondent

.....

- Mr. Shambhu M. Jha, Advocate for Applicant.
- Ms. Rajeshree V. Newton, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.**  
**DATE : 16<sup>th</sup> APRIL, 2024**

**P.C. :**

1. The Applicant is seeking anticipatory bail in connection with C.R.No.1044/2023, dated 24/11/2023, registered with Dahisar Police Station, Mumbai, under sections 420, 465, 467, 470, 471 r/w 34 of the Indian Penal Code.
2. Heard Mr. Shambhu M. Jha, learned counsel for the Applicant and Ms. Rajeshree V. Newton, learned APP for the State.

3. The FIR is lodged by one Samir Shaikh. He has stated that his father had a shop at Dahisar (E) bearing shop No.18, C-203, Green Mahel Park, Mira Road. The informant had two brothers Sikandar and Khalid. The informant and his elder brother were residing outside Mumbai because of their work. They had executed power of attorney in the name of their brother Khalid except for selling the shop. On 30/08/2019, Khalid had given that shop No.18 to the present Applicant on rent for three years. That period was to get over on 30/04/2022. Initially he paid the rent on time, but subsequently the Applicant did not pay any rent. It is alleged that the informant persistently asked for his rent. Therefore, on 28/10/2021 the Applicant had sent Rs.1 lakhs as the rent for four months. On 28/04/2022, the informant went to that shop as the lease agreement was to get over on 30/04/2022. At that time, the Applicant told him that he had purchased that shop from the informant's brother Khalid for Rs.30 lakhs. The Applicant filed one civil suit in that behalf. The informant obtained the copies of that suit. He came to know that the Applicant was relying on the copy of an agreement for sale, power of attorney, affidavit and possession letter executed

between the informant's brother Khalid and the Applicant's brother Deepak. According to the first informant, these documents were forged. The informant approached the notary who had notarized the documents. The said notary Mr. R. A. Alate denied that the signature on those documents were his signatures. On this basis, the FIR is lodged against the Applicant and his brother Deepak.

4. Learned counsel for the Applicant submitted that those documents in question are executed between Khalid and the first informant's brother Deepak. A Civil Suit is also filed by Deepak. Therefore, it cannot be said that the Applicant had used those forged documents. The leave and license agreement was executed between Khalid and the present Applicant. There is no dispute about leave and license agreement. Learned counsel for the Applicant relied on the page No.61 of the memorandum of this application, mentioning that the same document was certified as true copy by the same notary R.A. Alate.

5. Learned APP produced the investigation papers which contain the statement of the notary R. A. Alate. It was recorded

on 04/10/2022 i.e. before lodging of the FIR during preliminary enquiry. In that statement he has stated that no such document between Khalid and Deepak were executed in his presence. He also added that those documents did not contain his original signature or stamp. Learned APP submitted that though this statement is recorded in 2022, the FIR is lodged only on 24/11/2023. She submitted that the FIR was registered belatedly because the settlement talks were going on between the informant and the accused to the knowledge of the Investigating Officer.

6. Considering this statement and the submissions made by learned counsel for the Applicant, till the next date, the Applicant can be protected by way of ad-interim relief. It is necessary to hear the first informant in the present case.

7. Hence, the following order :

### **ORDER**

- (i) The Applicant shall add the first informant as a party Respondent within a period of two weeks from today.

- (ii) Issue notice to the added Respondent returnable on 13/06/2024.
- (iii) In the event of his arrest in connection with C.R.No.1044/2023, dated 24/11/2023, registered with Dahisar Police Station, Mumbai, till the next date, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (iv) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (v) This order shall operate till 13/06/2024.
- (vi) Stand over to 13/06/2024.

**(SARANG V. KOTWAL, J.)**