

MHCC050061332022



**IN THE COURT OF SESSIONS AT DINDOSHI,  
BORIVALI DIVISION, GOREGAON, MUMBAI.**

**ANTICIPATORY BAIL APPLICATION NO.1837 OF 2022**  
**IN**  
**C.R.NO.1165 OF 2022**

**Greta Edward Coutinho,**

Age : 63 years, Occu: Business,

Residing at : G-44, Juhu Gaonthan no.2,

H.No.6, Tin Shed, Juhu, Santacruz (West),

Mumbai-400 049.

**...Applicant/accused.**

**V e r s u s**

**The State of Maharashtra  
(Juhu Police Station)**

**...Respondent.**

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Shri Rakesh Singh, Advocate for the Applicant/accused.

Shri Ajit Dalvi, Advocate for the intervener.

Shri Sachin Jadhav, A.P.P for the State.  
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**CORAM : A.Z.KHAN,  
Additional Sessions Judge,  
Borivali Division, Dindoshi, Mumbai.  
(C.R.NO.09)  
Dt.04<sup>th</sup> January, 2023.**

**O R D E R**

1. The present application is filed by the applicant/accused

for the Anticipatory Bail. Perused the application and say thereon vide Exh.3. Heard the learned advocate Shri Rakesh Singh for the applicant/accused, the learned advocate Shri Ajit Dalvi for the intervener & the learned A.P.P Shri Sachin Jadhav for the State. I have gone through the case papers, say of the police, intervener application Exh.5 and the documents. It is seen that the present applicant/accused alongwith the other accused alleged to have been committed the offences punishable u/s 452, 380, 341, 141, 143, 147 & 506 r/w 34 of The I.P.C in Crime No.1165 of 2022 wherein the offence is registered in Juhu Police Station, Mumbai.

2. It is pertinent to note here that the report lodged by the complainant namely Sunita Sachin Kutoriya Dt.14.11.2022 alongwith the statements of the witnesses and the documents filed by the parties on record including CCTV Footages and photographs etc clearly shows that the complainant took the premises on rent @Rs.1300/- Per Day situated at G-44, House No.6, Juhu Goanthan No.2, Juhu, Mumbai since 2002 from the father of the present applicant/accused and she was running the Dhaba namely 'Sachin Dhaba' and used to pay the rent amount to the Edward Coutinho who is the father of the present applicant/accused and thereafter to the present applicant/accused. However, the present applicant/accused alongwith the other accused started to threat to the complainant to vacate the said premises whereby she has filed the suit before the civil court but the present applicant/accused with the help of the other accused removed & committed the theft of all the utensils & articles etc from the said Dhaba worth Rs.76,500/- and put the lock to the said premises in the absence

of the complainant whereby the complainant lodged the report in which the police investigated the matter and recorded the statements of the witnesses and collected the CCTV footages and photographs.

3. Obviously, the report, the statements of the witnesses & the documents filed by the parties on record including the C.C.T.V footages etc clearly shows that the father of the present applicant/-accused namely Edward Coutinho owned and possessed the said premises and the complainant took the said premises on rent @Rs.1300/- Per Day situated at G-44, House No.6, Juhu Goanthan No.2, Juhu, Mumbai since 2002 and the complainant was running the Dhaba namely 'Sachin Dhaba' and used to pay the rent amount to the Edward Coutinho who is the father of the present applicant/accused and thereafter to the present applicant/accused but the present applicant/accused alongwith the other accused started to threat to the complainant to vacate the said premises whereby she has filed the suit before the Civil Court which is pending but the present applicant/accused with the help of the other accused removed & committed the theft of all the utensils & articles etc from the said Dhaba worth Rs.76,500/- and put the lock to the said premises in the absence of the complainant.

4. Needless to say that the statements of the witnesses and the CCTV Footages and photographs clearly shows that the complainant was in occupation and possession of the suit premises wherein she was running the Dhaba in the name of 'Sachin Dhaba' since 2002 but the present applicant/accused with the help of the other accused removed

& committed the theft of all the articles from the said suit premises forcefully in the absence of the complainant. No doubt, the complainant has already filed the suit before the City Civil Court, Dindoshi, Mumbai which is pending but the present applicant/accused vacated the premises forcefully with the help of the other accused without following due process of law. The offence is serious and present applicant/accused alongwith the other accused took the law in their hand and committed theft all articles worth Rs.76,500/- which are yet to be recovered whereby the custodial interrogation of the present applicant/accused is indeed essential otherwise the right to interrogate the present applicant/accused by the investigation Officer would be taken away which would certainly affect the case of the prosecution & ultimately the case of the complainant on merit.

5. However, the facts of the case cited by the learned advocate for the applicant/accused bearing *1.Civil Appeal No.5779 of 2021 between Himalaya Vintrade Pvt Ltd Vs Md. Zahid decided on 16.09.2021, 2.Criminal Revision Case No.237 of 2006 between Koduri Venkata Rao Vs The State decided on 10.03.2021 & 3.Criminal Appeal No.2271 of 2010 between Siddharam Mhetre Vs State of Maharashtra decided on 02.12.2010* and the facts of the case in hand are entirely different & thus the principles & ratio laid down by Their Hon'ble Lordships do not assist to the case of the applicant/accused with due respect.

6. In such circumstances, I am of the view that this is not the fit case in which the applicant/accused can be released on anticipatory

bail u/s 438 of The Cr.P.C & thus I proceed to pass the following order.

**ORDER**

The application is hereby rejected.

**(A.Z.Khan)**

Additional Session Judge,  
Borivali Div, Dindoshi,  
Mumbai.

**Date :- 04.01.2023.**

Dictated on : **04.01.2023.**  
Transcribed on : **04.01.2023.**  
Checked and Signed on : **04.01.2023.**

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

**04.01.2023 at 05.50 P.M.**  
**UPLOAD DATE AND TIME**

**Ashok S. Sugdare**  
**NAME OF STENOGRAPHER**

Name of the Judge (With Court room no.)	<b>SHRI. A. Z. KHAN</b> <b>(C.R. NO.09)</b>
Date of Pronouncement of JUDGMENT/ ORDER	<b>04.01.2023</b>
JUDGMENT/ORDER signed by P.O. on	<b>04.01.2023</b>
JUDGMENT/ORDER uploaded on	<b>04.01.2023</b>