

MHCC050061702022



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

ANTICIPATORY BAIL APPLICATION NO.1850 OF 2022
IN
C.R.NO.1165 OF 2022

1.Manish Balraj Solanki,

Aged : 41 years, Occu.: Business,
Residing at : Room No.43, Father Wadi,
Juhu church, Near Rose Apartment
Juhu, Mumbai-400 049.

2.Mahesh Jasubhai Solanki,

Age : 34 years, Occu: Business,
Residing at : 9/C, Andheri Sahar Road,
Teli Gali, Sai Wadi, Room No.508,
N.C.Phadke Marg, Andheri (east),
Mumbai-400069.

...Applicants/accused.

V e r s u s

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

...Respondent.

Shri Harshvardhan Salgaokar, Advocate for the applicants/
accused.

Shri Ajit Dalvi, Advocate for the intervener.

Shri Sachin Jadhav, A.P.P for the State.

**CORAM : A.Z.KHAN,
Additional Sessions Judge,
Borivali Division, Dindoshi, Mumbai.
(C.R.NO.09)
Dt.04th January, 2023.**

O R D E R

1. The present application is filed by the applicants/accused for the Anticipatory Bail. Perused the application and say thereon vide Exh.3. Heard the learned advocate Shri Harshvardhan Salgaokar for the applicants/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 applicants/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 Kutvariya 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.1,300/- Per Day situated at G-44, House No.6, Juhu Goanthan No.2, Juhu, Mumbai since 2002 from the father of the accused namely Greta Edward Coutinho and the complainant was running the Dhaba namely 'Sachin Dhaba' and used to pay the rent amount to the Edward Coutinho & thereafter to the

accused namely Greta Edward Coutinho. However, the accused Greta Edward Coutinho alongwith the present applicants/accused started to threat to the complainant to vacate the said premises whereby she has filed the suit before the civil court but the said accused Greta Edward Coutinho with the help of the present applicants/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 accused Greta Edward Coutinho namely Edward Coutinho owned and possessed the said premises and the complainant took the said premises on rent @Rs.1,300/- 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 and thereafter to the accused Greta Edward Coutinho but the said accused Greta Edward Coutinho alongwith the present applicants/accused entered into the agreement of Leave & License & 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 accused Greta Edward Coutinho with the help of the present applicants/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 accused Greta Edward Coutinho with the help of the present applicants/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 accused Greta Edward Coutinho vacated the premises forcefully with the help of the present applicants/accused without following due process of law. The offence is serious and present applicants/accused alongwith the other accused took the law in their hand and committed the theft all articles worth Rs.76,500/- which are yet to be recovered whereby the custodial interrogation of the present applicants/accused is indeed essential otherwise the right to interrogate the applicants/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. In such circumstances, I am of the view that this is not the fit case in which the applicants/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 05.25 P.M.
UPLOAD DATE AND TIME

Ashok S. Sugdare
NAME OF STENOGRAPHER

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