

**Order below Exh.1 in Cri. Bail Application No. 316/ 2022**

1. Shashikant Bapurao Aher
2. Ajinkya Shashikant Aher,
3. Aditya Shashikant Aher. ... Applicants  
Accused.

Vs.

The State of Maharashtra  
through PI Kalwan Police St. .. Respondent.  
(Cr. No. I 40/2022)

**Order below Exh. 1**

1. This application has been filed by the applicants/accused under section **438 of Cr.P.C.** for releasing them on **anticipatory bail** in Crime. No.I 40/2022 registered at Kalwan Police Station for the offences punishable under sections 353, 504, 506, 427 r/w. 34 of the Indian Penal Code. This Court has granted interim protection to the applicants on 08.03.2022 till filing say by the prosecution.
2. The brief facts of the case is that, the complainant herein is a public servant. He is working as Deputy Engineer in Zilla Parishad, Panchayat Samittee, Kalwan. He was entrusted with the work of construction of road and its renovation. On 07.03.2022 around 11.00 am, applicants have obstructed the complainant while discharging his duty when the construction of road was in progress on the disputed area. The applicants are claiming their rights over the said road/property. They have already filed Civil Suit in respect of the disputed area before

Kalwan Court and the matter is also sub-judiced before Hon'ble High Court. The Hon'ble Bombay High Court has granted ad-interim relief to the applicants. Despite the said Order, prima facie, it appears that the complainant has started the work of road construction on the disputed area. He threatened the applicants and also lodged the FIR. The applicants are apprehending their arrest at the hands of the Police.

3. The learned counsel Mr. V.B.Nehe appearing for the applicants/accused has argued that the applicants are innocent and have not committed any offence. The applicants have no criminal antecedents. The civil dispute on account of construction of disputed road is going on before the Revenue Authorities and also before the Hon'ble High Court, Mumbai. The Hon'ble Bombay High Court stayed the work of construction of road. Despite this, the complainant tried to construct the road by violating the Order of Civil Court. Hence, considering the nature of dispute, applicants prayed for grant of anticipatory bail and for confirmation of interim protection granted to them on 08.03.2022.

4. The Investigating Officer has filed his say vide Exh.8 and strongly opposed the application on the ground that the applicants have obstructed the complainant from constructing the road and thereby created hurdle in Government work. The

statements of witnesses are yet to be recorded u/s. 164 of Cr.P.C. If applicants are released on bail, they may pressurize the witnesses and tamper with evidence. The investigation is at initial stage. Hence, prayed for rejection of the application.

The Id. APP Smt. Reshma Jadhav has strongly opposed the application by filing written notes of argument at Exh.9 thereby stating that the offence is serious in nature. If applicants are released on bail, there is every possibility that they may tamper the witnesses and would not obey the terms and conditions. Hence, prayed for rejection of the bail.

5. After hearing both the sides and perusal of the case, it appears that despite the matter being sub-judice before the Hon'ble High court, the complainant tried to construct the road. Further, considering the nature of the dispute, custodial interrogation of the applicants is not required and therefore, the interim protection granted to applicants is to be confirmed. Hence, following order.

### **ORDER**

1/- Application is hereby allowed.

2/- Interim protection granted to applicants on 08.03.2022 is hereby confirmed subject to same conditions.

( **Smt. S.S. Nair** )

Date : 22.03.2022.

Addl. Sessions Judge -4, Nashik.

