

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

A.B.APPLICATION NO.345 OF 2015

Adinath Eknath Shinde	..Applicant
-Versus-	
The State of Maharashtra	..Respondent

Mr.S.Dhakephalkar for applicant
Mr.Arfaan Sait, APP for State
Mr.Vijay Killedar for complainant
Mr.A.B.Ahirrao PSI Yerwada Police Station present.

CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 7th April 2015.

P.C.

1] The applicant has moved this application for pre-arrest bail under section 437 of Cr.P.C.

2] The applicant accused along with co-accused are involved in the offence of cheating and forgery and thereby are prosecuted under section 420, 465, 467, 468, 469, 471, 506 read with 34 IPC in C.R.No.38 of 2015 registered with Yerwada police station. It is the case of the prosecution that one Dynaneshwar Narayan Mulik aged 74 suffering from paralysis has given information to the police that

he is the owner of same land at Vadgaon sheri, Dist. Pune. In the first week of January 2015 his watchman informed him that applicant accused has come and informed that they had come to see the land and purchase the same. Therefore, the complainant asked his son to find out whether the applicant accused has prepared any false document in respect of the said land. Accordingly, on enquiry they procured photocopies of the bogus agreement disclosing that the applicant accused has entered into an agreement dated 15th March 2014 in respect of the land of the complainant and for that transfer the parties agreed for a consideration of Rs.5.50 Crores and out of that amount Rs.50 lakhs were received by the complainant. It is further case of the prosecution that though the complainant did not sign any documents his photographs and photo copy of the passport was produced, his signature was forged and the said documents were notarised. Therefore, there were two such bogus agreements and he gave the complaint.

3] The learned Counsel for the applicant accused submits that the entire case against the applicant/ accused is false. The

applicant is innocent. There is no substance in the FIR given by the complainant. He submitted that the agreements were only notarised and no transfer is possible by notarised documents. There was no wrongful loss or gain to anybody. The learned Counsel for the applicant further submits that the applicant has not used these documents and therefore, no forgery has taken place and he seeks protection.

4] Learned Prosecutor submitted that the applicant accused has committed offence of forgery and attempted to cheat the complainant with intention to dispose of his land behind his back. The learned Prosecutor has relied upon the statements of Notary Public, 7/12 extracts so also the statements of witnesses from the office of Sub-Registrar, the statement of the Agent who took out the photo copies of these documents. The photograph of the said forged documents are also produced before the court. He further submitted that two cases are registered against the applicant – accused and his custody is required.

5] Perused the FIR. The alleged agreement is dated 15th March

2014 between the applicant and the complainant. Perused the statement of the agent who procured the photocopies and who is stated that in the first week of December 2014 the applicant accused has contacted him for the sale of this land of the complainant. The submissions of the learned Counsel for the applicant is that no actual transfer of the land has taken place and the documents were only notarised and on the basis of those notarised documents transfer is not possible and, therefore, the applicant has not committed any offence much less offence of forgery and cheating cannot be accepted at this stage. Prima facie, there is evidence to show that applicant accused has committed offence of forgery. His custodial interrogation in respect of those documents is necessary. It is also noted that there is criminal antecedent against the applicant of similar nature. In that case, on the basis of forged documents the applicant has entered into transaction with a builder. Hence, the application is rejected.

(Mrs.Mridula Bhatkar, J.)