

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 631 OF 2015

Rajendra Arvind Pratap	... Applicant
Vs.	
The State of Maharashtra	... Respondent

CRIMINAL APPLICATION NO. 459 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO. 631 OF 2015

Ashok Motilal Katariya	... Intervener
in the matter between	
Rajendra Arvind Pratap	... Applicant
Vs.	
The State of Maharashtra	... Respondent

ANTICIPATORY BAIL APPLICATION NO. 517 OF 2015

Vasudeo Eknath Bhagat	... Applicant
Vs.	
The State of Maharashtra	... Respondent

CRIMINAL APPLICATION NO. 409 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO. 517 OF 2015

Ashok Motilal Katariya	... Intervener
in the matter between	
Vasudeo Eknath Bhagat	... Applicant
Vs.	
The State of Maharashtra	... Respondent

ANTICIPATORY BAIL APPLICATION NO. 599 OF 2015

Nilesh Pandharinath Patil	... Applicant
Vs.	
The State of Maharashtra	... Respondent

CRIMINAL APPLICATION NO. 461 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO. 599 OF 2015

Ashok Motilal Katariya	... Intervener
in the matter between	
Nilesh Pandharinath Patil	... Applicant
Vs.	
The State of Maharashtra	... Respondent

ANTICIPATORY BAIL APPLICATION NO. 681 OF 2015

Sudam Manohar Parab	... Applicant
Vs.	
The State of Maharashtra	... Respondent

CRIMINAL APPLICATION NO. 460 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO. 681 OF 2015

Ashok Motilal Katariya	... Intervener
in the matter between	
Sudam Manohar Parab	... Applicant
Vs.	
The State of Maharashtra	... Respondent

Mr. J.H. Sawant a/w. Mr. P.G. Parkar, Advocate for the applicant in ABA/631/2015.

Mr. Niteen Pradhan i/b. Ms. Shubhada D. Khot, Advocate for the applicant in ABA/517/2015, ABA/599/2015 AND aba/681/2015.

Mr. S.S. Pednekar, APP for the State in all the matters.

Mr. Ramesh Dube-Patil, Advocate for the applicant/intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 22, 2015**

P.C.:

Criminal Application Nos. 459 of 2015, 409 of 2015, 461 of 2015 and 460 of 2015 filed by the original complainant for intervention are allowed.

2. The applicants/accused have moved these Applications for anticipatory bail, as they are facing charges under sections 420, 467, 468, 471, 406, 417, 120B r/w. 34 of the Indian Penal Code in C.R. No. I-98 of 2015 registered at Sarkarwada Police Station, Nashik. The offence is registered at the instance of Ashok Motilal Katariya of Nashik.

3. It is the case of the complainant that he was approached by Rajendra Pratap, Onil Pratap, Vasudeo Bhagat, Nilesh Patil for the sale of their lands at Village Pelhar, Taluka Vasai, District Thane. These lands were owned by applicant/accused Rajendra Pratap and Onil Pratap is the power of attorney holder while Vasudeo Bhagat and Nilesh Patil were agents and they made representation that these lands can be sold to the complainant. The complainant agreed to buy those lands admeasuring total 55 acres. The said lands were sold by power of attorney holder Onil Pratap to applicant Sudam Parab on 25th November, 2011 and thereafter on 29th November, 2011 by registered Conveyance Deed, the same land was purchased by the complainant from applicant Sudam Parab for Rs.7,75,00,000/-. The complainant paid them the said amount by cheque. Out of the said amount, Rs.4,75,00,000/- were paid to Sudam Parab. After this transaction, the complainant found that those lands were already sold by one Rajendra Pratap, the owner of the land, to Deepak Harishchandra Thakur, partner of M/s. Viva Holdings on 17th November,

2011. Thus, the complainant found that he was cheated by the applicants/accused, as he has parted with huge amount of Rs.7,75,00,000/- believing on their false claims. The applicants/accused avoided to pay back the money to him and thereafter, the complainant gave complaint to the police.

4. The learned counsel for the applicants/accused, i.e., Nilesh Patil, Vasudeo Bhagat and Sudam Parab, has submitted that Vasudeo and Nilesh were agents and they have sign the witness of Deed Conveyance on 29th November, 2011. He submitted that Nilesh and Vasudeo have not played any fraud on the complainant, so also Sudam Parab has issued a cheque of Rs.4,75,00,000/- and that cheque was bounced, therefore, case under section 138 of N.I. Act is pending before the JMFC. The learned counsel further submitted that as the lands were already sold to Deepak Thakur by Rajendra Pratap on 17th November, 2011 and they have received money from the complainant for the said lands, the applicants/accused have offered other land which is owned by Nilesh Patil at Gat No. 572, Village Kurali, Taluka Chakan, District Pune. The value of the said land was more than Rs. 4,75,00,000/- and the said land was purchased in the name of Sunil Raisonni and Rajendra Raisonni, brothers of complainant's wife.

5. The learned counsel for applicant/accused Rajendra Pratap submitted that Rajendra is the owner of these lands. In the year 2010, the applicant has issued public notice informing the public at large that he has not executed power of attorney in favour of any person and therefore, he would not be liable for any transaction if done in name of so called power of attorney. He further submitted that after coming across the facts of these transactions, which has taken place in respect of the lands, he has lodged a criminal case on 8th April, 2012 at C.R. No. 77 of 2012 at Waliv Police Station, Vasai against Onil Pratap, Sudam Parab and Nilesh Patil. The learned counsel submitted that the applicant Rajendra was not in picture at all when the proposal in respect of sale of land was given and the transaction has taken place between the other applicants/accused and the complainant.

6. Learned APP and learned counsel for the intervener both opposed these Applications. The learned counsel for the intervener has submitted that the complainant has suffered loss of huge amount due to this fraud and cheating by the applicants/accused. He submitted that the complainant was induced by the applicants/accused and co-accused by showing that their land is of clear title and therefore, he ventured to enter into sale deed in respect of said land. He further argued that the cheques given by the applicants/accused towards repayment are also dishonoured.

Subsequent transaction which has taken place has also caused lot of financial loss to the complainant, as there are claims by many persons in the said land.

7. Perused the FIR and statements of the witnesses. On query, learned APP produced statements of two witnesses recorded on 8th June, 2015 by the Investigating officer. These statements are the statements of ex-employees of the complainant. It appears *prima facie* that Onil Pratap, posed as power of attorney holder, with the help of other three accused, namely, Vasudeo Bhagat, Nilesh Patil and Sudam Parab, made representation in respect of sale of lands which are in fact owned by applicant/accused Rajendra Pratap. In view of the complaint given by Rajendra at C.R. No. 77 of 2012 and a public notice issued by him and neither the payment was received by him directly from the complainant nor he issued any cheque towards repayment to the complainant, considering the role of Rajendra, *prima facie* his case can be disassociated from the case of other applicants/accused.

8. Co-accused Onil Pratap was arrested in this case. He has represented as power of attorney holder of Rajendra Pratap to the complainant, is released on bail. Vasudeo Bhagat, Nilesh Patil and Sudam Parab, who are applicants/accused are *prima facie* involved in this

offence. The transaction shows that the amounts were taken from the complainant against the sale of the lands which was already sold to Deepak Thakur on 17th November, 2011 by Rajendra Pratap. However, the cheques were issued by Sudam Parab of Rs.4,75,00,000/- and that cheque was dishonoured and the other cheques issued by other accused were also dishonoured, hence the complainant has filed criminal case against these applicants/accused under section 138 of Negotiable Instruments Act and the same are pending before the Court. After going through the statement of these two persons, who were in employment of the complainant, it reveals that complainant further purchased a land from Nilesh Patil at village Kurali by registered sale deed and the said land was purchased in the name of his brother-in-laws, i.e., Sunil Raisonni and Rajendra Raisonni. Thus, it shows that there was some kind of further transaction of the land between the parties and the complainant tried to meet the loss out of this further transaction. The grievance of the complainant, as on today, is that the land in the second transaction is also not with the clear title and the applicants/accused have deceived him again. However, if that is so, that is the different issue and he may take recourse before the proper forum. Today this Court has to consider whether the custody of the applicants/accused is necessary or not considering the nature of transaction.

9. I am of the view that the applicants/accused are to be given protection of pre-arrest bail on the following terms and conditions:

ORDER

- (i) In the event of arrest, the applicants/accused shall be enlarged on bail upon furnishing P.R. Bond in a like amount of Rs.25,000/- with one or two sureties in the like amount.
- (ii) The applicants/accused shall cooperate the police by producing all necessary documents.
- (iii) The applicants/accused Nilesh Patil, Vasudeo Bhagat and Sudam Parab shall attend the concerned police station on four Saturdays between 10 a.m. to 12 noon.
- (iv) The applicant/accused Rajendra Pratap shall attend the concerned police station on 4th July, 2015 and 11th July, 2015 between 10 a.m. to 12 noon.

10. The Applications stand disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)