

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 606 OF 2015

1.	Shantaram Balu Patil	
2.	Harishchandra Balu Patil	
3.	Waman Balu Patil	
4.	Sunil Chagan Patil	... Applicants
	Vs.	
	The State of Maharashtra	... Respondent

Mr. Pawan Mali i/b. Mr. R.V. Watulkar, Advocate for the applicants.
Ms. Veera Shinde, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **JUNE 24, 2015**

P.C.:

In this Anticipatory Bail Application, the learned APP submitted that applicants/accused Shantaram Balu Patil and Sunil Chagan Patil are arrested on 9th June, 2015 and, therefore, this Application against Harishchandra Balu Patil and Waman Balu Patil is alive.

2. This Application is moved for pre-arrest bail under section 438 of the Criminal Procedure Code, as the applicants/accused are facing charges of fraud and forgery under sections 420, 463, 467, 468, 471 r/w. 34 of the Indian Penal Code in C.R. No. 57 of 2015 registered with Kamothe Police Station, District Raigad. One Bharat Bhor, who is a builder has lodged this complaint against the applicants/accused and co-accused.

3. It is the case of the complainant that the applicants/accused and co-accused are the owners of the land in Sector No. 24, Plot no. 6 at village Kamothe. The complainant had entered into Agreement to Transfer and Assign with the applicants/accused and co-accused and pursuant to that, they were paid in all Rs.3,00,05,000/- on 24th October, 2008. Thereafter, the applicants/accused and co-accused refused to transfer the said land by executing Deed of Conveyance and, therefore, the complainant has filed Suit No. 328 of 2010 in the City Court. The City Civil Court had passed order of status-quo, which is in favour of the complainant, i.e., plaintiff. Despite the said order of status-quo dated 3rd December, 2010, the applicants/accused and co-accused sold their lands to one Harshad Abdul Wahid Quershhi and Mangesh Eknath Thakur of Shakti Enterprises for Rs.4,25,00,000/-. The permission of the complainant was not obtained at the time of said transaction. Similarly, the officers of CIDCO though were aware of the order passed by the City Civil Court, fraudulently gave no status report in favour of the second purchaser.

4. The learned counsel for the applicants/accused has submitted that two co-accused are already arrested by the police and submitted that the applicants/accused are available for interrogation and are ready to cooperate them. He submitted that already a Civil suit is pending between the complainant and applicants/accused.

5. Learned APP submitted that in the second sale deed, which has taken place between the applicants/accused and Shakti Enterprises, thumb impression of Vitabai, mother of the applicants/accused were seen on the said Deed of Conveyance. She submitted that mother Vitabai expired in 2012, however, her thumb impression are appearing in the sale deed of 2013. She submitted that police wants custody of these applicants/accused to find out who has put the thumb impression.

6. It is the case of avoiding specific performance due to the second transaction of land by the applicants/accused. Civil Suit is filed by the complainant and order of status-quo is passed in favour of the complainant. Considering the nature of offence, the documents involved therein and the role of applicants/accused, who are party to the second transaction with Shakti Enterprises, I am of the view that custodial interrogation of the applicants/accused is not required. Hence, pre-arrest bail is granted to the applicants/accused Harishchandra Balu Patil and Waman Balu Patil on the following terms and conditions:

ORDER

- (i) The Application is allowed.
- (ii) In the event of arrest, the applicants Harishchandra Balu Patil and Waman Balu Patil shall be enlarged on bail upon furnishing P.R. Bond in a like amount of Rs.20,000/- each

with one or two sureties in the like amount.

- (iii) The applicants shall not tamper with the evidence.
- (iv) The applicants shall attend the concerned police station on every Tuesday between 10 a.m. to 11 a.m. for one month and cooperate with the Investigating officer and produce all the necessary documents.

7. The Application stands disposed of accordingly.

(MRS.MRIDULA BHATKAR, J.)