

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.614 OF 2015

Arshad Abdul Wahid Quershi ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Bhavesh Parmar i/b. Mr. D.J. Shukla, for the Applicant.

Mr. D.P. Adsule, APP for Respondent – State.

IO. Mr. R.D. Adagale (PI), Kamothe police station present.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **JULY 06, 2015**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 420, 465, 466, 467, 468, 471 and 473 read with 34 of the Indian Penal Code in C.R. No. I-57 of 2015 registered with Kamothe police station, Navi Mumbai.

2. One Bharat Tukaram Bhor gave information to police on 12th March, 2015. It is his case that he is a Developer and he had

entered into an agreement of sale with some land owners and he paid them Rs. 3,00,05,000/- towards the agreement dated 24th October, 2008. Thereafter, the said land owners avoided to transfer their lands/properties to the complainant. Therefore he filed a Civil Suit No. 328 of 2010 before the Civil Court at Panvel. In that suit, the Court passed the order of status quo on 3rd December, 2010. Despite of the said order, the said land owners sold their lands for more amount i.e. Rs. 4,25,00,000/- to the Shakti Enterprises, of which the present applicant/accused and one Mangesh Thakur are the partners. It is the case of the complainant that there is order of status quo and the applicant/accused was also aware of this. Still he entered into the transaction by obtaining a false report given by the officers of CIDCO. The said report was managed by them. So also the signature of one land owner Vithabai Balu Patil (dead) is forged by showing her alive.

3. The learned counsel for the applicant/accused has relied on para B of the Sale Deed executed between Shakti Enterprises and the land owners wherein, it is mentioned that Vithabai Patil is expired on 22nd February, 2012 and her heirship statement is obtained from the Panvel Court. He further submitted that the firm has purchased

from the original land owners by paying the entire amount. They have not committed any offence of cheating or forgery. They have no knowledge of the order of status quo.

4. The learned prosecutor opposed the bail application. He submitted that though Vithabai Patil is dead, the thumb impression of Vithabai is shown on the document of construction permission dated 13th April, 2014 by the applicant/accused. The order of status quo was passed by the Court. The said fact is suppressed and the officers of CIDCO are working hand-in- glove with the applicant/accused.

5. Perused the first information report, Sale Deed and other documents. It shows that earlier the original land owners have entered into an agreement of sale between the complainant on 24th October, 2008. The complainant has paid the land owners as per the agreement to transfer. He has also filed a Civil Suit No. 328 of 2010 on 3rd February, 2010. In view of this, it appears *prima facie* that the original land owners violated the order of the Civil Court and second transaction has taken place. The complainant has a remedy before the Civil Court in the same suit. So far as the forgery is concerned, there

is recital of death of Vithabai Patil in the Sale Deed. No status quo report is given the lawyer or the CIDCO officers. Therefore considering these allegations and the nature of the evidence on record, the applicant/accused is entitled to pre arrest bail.

6. Hence, I grant anticipatory bail as under:

a) In the event of arrest, the applicant/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 20,000/- (Twenty Thousand) with one or two solvent surety/s in the like amount;

b) The applicant/accused shall cooperate with the investigating officer and shall attend the concerned police station once in a week on every Tuesday in between 6 pm to 7 pm till filing of the charge sheet.

c) The applicant/accused shall not indulge in any other criminal activity or pressurize the complainant.

7. Anticipatory bail application stands disposed of on the above terms.

(MRS.MRIDULA BHATKAR, J.)