

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.845 OF 2015

Santosh Krishnaji Gawde ... Applicant
Vs.

The State of Maharashtra ... Respondent

ALONGWITH

CRIMINAL APPLICATION NO.550 OF 2015

Rajendra Dagadu Gaikwad ... Intervener
Vs.

The State of Maharashtra ... Respondent

Mr. Hrishkesh Mundargi, Adv. for applicant in ABA No.845 of 2015
Mr. Manoj Mohite, Adv. i/b. Sweeta Iyengar, Adv. for applicant in
APPP No.550 of 2015.

Mrs. G P Mulekar, APP for State.

CORAM : SMT ANUJA PRABHUDESSAI, J.

DATE : 7th December, 2015.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending his arrest in Crime No.152 of 2015 registered at Chakan Police Station for the offences punishable under Sections 418, 420, 468, 471, 477A, 423, 424, 406, 120-B of the IPC.

2. Mr. Hrishikesh Mundargi, the learned counsel for the applicant has submitted that the present case relates to the transaction of the year 2010. He has further submitted that the land which was sold has already been transferred in the name of the

purchasers and that the complainant had signed the sale deed and given no objection for mutation. The learned counsel for the applicant further submits that there are several disputes between the complainant and the applicant in respect of the account of partnership. He, therefore, claims that the present case is filed only as pressurising tactics.

3. The learned APP for the State as well as the learned counsel for the intervener have submitted that the applicant had received the cheque for Rs.1 crores and that there is no prima facie material to show that he had transferred 50% of the said amount in the name of the complainant. He has further submitted that applicant had compelled the complainant in signing sale deed by misrepresenting the facts. He has further submitted that the applicant has manipulated the income tax returns and has rectified the same only after filing of the FIR. The learned counsel for the complainant / intervener has further stated that the applicant in collusion with other co-accused is fabricating the records and that the nature of the allegations levelled justify custodial interrogation.

4. I have perused the records and considered the submissions

advanced by the learned counsel for the respective parties. The records prima facie reveal that applicant and the complainant had agreed to sell a property to M/s. Eminence Equipments P. Ltd. In terms of the said agreement M/s. Eminence Equipments P. Ltd. had paid Rs.1 crores by cheque, which was undisputedly drawn in the name of the applicant herein. The said amount was to be equally shared between the applicant and the complainant. The complainant was, therefore, entitled to receive Rs.50 lacs out of the said sale consideration.

5. The grievance of the complainant is that the applicant had assured him that he would transfer 50% of the amount and based on said assurance the applicant had compelled him to sign the sale deed and other documents. Prima facie there is no material on record to show that 50% i.e. amount of Rs.50 lacs has been transferred in the account of the complainant. The allegations in the complaint prima facie reveal commission of offence under Section 420 of IPC. It is however to be noted that the said incident had occurred in the year 2010. The present FIR has been lodged in the year 2015. The time gap between the offence and the lodging of the FIR is a factum which would not justify custodial interrogation. Considering these aspects,

in my considered view, the applicant is entitled to anticipatory bail.

6. Hence, the application is allowed under the following terms.

1. In the event of arrest of the applicant in Crime No.152 of 2015 registered at Chakan Police Station, the applicant shall be released on bail bond of Rs.20,000/(Rupees Twenty Thousand Only) with one or two sureties in the like amount to the satisfaction of the JMFC, Rajgurunagar, Khed.
2. The applicant shall report to investigating officer for 7 days from 10 am to 1 pm and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not tamper with the evidence or influence complainant and witnesses in any manner.
4. The applicant shall not leave State of Maharashtra till filing of the chargesheet without prior permission of the JMFC, Rajgurunagar, Khed.
5. In view of the application for anticipatory bail disposed of, the intervener application is also disposed of.

(ANUJA PRABHUDESSAI, J.)