

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1052 OF 2015

Parvez Gulam Rasul Khan
Vs.

... Applicant

The State of Maharashtra

... Respondent

Mr. Tushar N. Sonawane, Advocate for the applicant.
Mr. J.H. Ramugade, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **AUGUST 10, 2015**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused apprehends arrest for the offences punishable under sections 420, 419, 467, 468, 471 r/w. 34 of the Indian Penal Code in C.R. No. 61/2015 of Igatpuri Police Station, Nashik Grahim. One Vimal Bhushan Bhatnagar is an informant, pursuant to which an offence was registered on 30th May, 2015.

2. It is the case of the prosecution that the complainant Vimal Bhatnagar has purchased a land bearing Gat no. 36 admeasuring 61.1 gunthas situated at village Bortambhe, Tal. Igatpuri in the year 1982. He is a resident of Mumbai and used to visit his land intermittently. In March 2015, when the complainant went to village Bortambhe, Igatpuri, one person informed him that his land is sold to some person residing at Mumbai. He was shocked and therefore, with the help of other person, he

took out 7/12 extract of his land and made search. He found that on 7/12 extract of his land, i.e., Gat no. 36, name of applicant/accused Pravez Gulam Rasul Khan was entered. He also took search of the sale deed and Power of Attorney dated 7th February, 2014 which were filed in the Office of Registrar. He found that the Power of Attorney was fraudulently executed by him in favour of Shirish Kurlekar on 7th February, 2014 and through him, the sale deed was executed between applicant/accused and Vimal Bhushan Bhatnagar on 19th June, 2014.

3. It is the case of the complainant that a photograph affixed below Power of Attorney or below the sale deed was not his but of some other person, therefore, he realized that he was cheated. He gave information to the police against all the persons who were responsible for the said sale deed.

4. The learned counsel for the applicant/accused has submitted that the applicant/accused is a purchaser of the land. He has not committed any offence. He has entered into sale deed only after giving public notice in respect of the said land in a newspaper. He submitted that one Shirish Kurlekar was a middleman who was holding Power of Attorney and a person by name Vadeer Natu Adole, who is co-accused have informed the applicant/accused that this land was ready for sale. The learned counsel submitted that Vadeer Adole is the owner of adjacent land and therefore,

he bonafidy entered into the transaction and purchased the land. The learned counsel further submitted that on 22nd March, 2014 through counsel he gave notice and thereafter obtained certificate from the advocate for purchase of the said land. He further submitted that the applicant/accused has paid an amount of Rs.11,00,000/- to Vimal Bhushan Bhatnagar and therefore, he is a bonafide purchaser. Therefore, he prays for pre-arrest bail.

5. Learned APP opposed the Application. He submitted that the police wants the custody of applicant/accused for interrogation as he is the one who is beneficiary in this fraud. The police have investigated on the basis of documents, which are produced by the applicant/accused when he attended the police station after getting the interim bail. He further submitted that the consideration of the said land was nearly Rs.33,65,000/-. However, the said amount was not paid and the land was transferred in his name. Learned APP further submitted that other accused persons, i.e., witnesses and Adole were arrested and released on regular bail. He further pointed out the power of attorney holder Shirish Kurlekar is absconding. Hence, no pre-arrest bail is to be granted to the applicant/accused.

6. Perused the FIR, documents produced by both the parties. It is ex-facie case of cheating. Though the applicant/accused has issued public

notice, however, it is necessary for him to show that the entire amount of Rs.33,65,000/- was paid by him towards this land. It is to be noted that in this transaction, the land is already transferred by mutation in the name of the applicant/accused though he has not paid the entire amount of Rs.33,65,000/-. The observations made by the learned Sessions Judge on this point and giving reasons for rejecting the bail are found correct. This is not a case to grant pre-arrest bail, as submitted by learned APP the applicant/accused's custody is necessary for interrogation. Hence, the Application for pre-arrest bail is rejected.

7. At this stage, the learned counsel for the applicant/accused orally prays to stay the operation of this order for sometime, as he wants to challenge this order before the Hon'ble Supreme Court. Learned APP opposed this prayer.

8. As the applicant/accused wants to challenge this order before the Hon'ble Supreme Court, the operation of this order is stayed till 24th August, 2015.

(MRS.MRIDULA BHATKAR, J.)