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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1143 OF 2015

Vinayak Vasant Vispute	... Applicant
Vs	
The State of Maharashtra	... Respondent

Mr.Subodh Desai i/b Mr.Akshay G. Patkar, for the Applicant.
Ms.S.H.Yadav, APP for the Respondent – State.
PN – 1364 Anil J. Rathod - Kalyan Taluka Police Station, Thane.

**CORAM : REVATI MOHITE DERE, J.
DATE : 08th SEPTEMBER, 2015**

P.C. :

1. Heard learned counsel for the Applicant and learned APP for the Respondent - State.
2. By this Application, the Applicant seeks pre-arrest bail, in connection with C.R. No. I-99 of 2015, registered with the Kalyan Taluka Police Station, Kalyan, District – Thane, for the alleged offences punishable under Sections 420 and 406 of the Indian Penal Code.
3. The complainant is one Baburao M. Bhamre. The complainant is the relative of the applicant, inasmuch as, the complainant is the husband of the paternal aunt of the applicant. The dispute is over a self-acquired property

of the father of the present applicant. According to the complainant, the present applicant had sold the property, without the consent of original owners i.e. himself and Pramod M. Ghodke. He has also alleged that the said property was sold by the applicant, at a price which was less than the market rate.

4. Learned Counsel for the Applicant states that a General Power of Attorney was given by the complainant and one Pramod Ghodke to Mrs. Pratibha Nandlal Vispute and the present applicant - Vinayak Vasant Vispute. Pursuant to the clauses set out in the Power of Attorney, the applicant was authorized to sell the property to any prospective purchaser, subject to receipt of consideration, that were permissible as per the Agreement. He submitted that the other co-owner- Pramod Ghodke had no objection to the said sale transaction, which is the subject matter of the complaint. He submitted that considering the nature of allegations, the dispute if any, is of a civil nature.

5. Learned APP does not dispute the fact that the allegations only pertain to selling of a property without the consent of the complainant and

that the property was sold at a price lesser than the market price.

6. Perused the FIR and the relevant documents in support thereof. It is not the prosecution case that the General Power of Attorney is a forged and fabricated document. Admittedly, a Power of Attorney was executed by the complainant and one Pramod in favour of Pratibha N. Vispute and the present applicant. It is also not in dispute that the pursuant to the Power of Attorney, the applicant was permitted to sell the said property. It also appears that the said Power of Attorney was in subsistence at the time when the property was sold and that it was not cancelled by the complainant. Perused the statement recorded of Pramod Ghodke, who had also given the Power of Attorney along with the complainant. Shri Ghodke does not dispute the fact that a Power of Attorney was given ; nor does he have any grievance regarding the sale transaction.

7. Considering the nature of allegations, the applicant is granted anticipatory bail on the following terms and conditions :-

ORDER

- i) In the event of arrest, the Applicant be enlarged on bail on

furnishing P.R.Bond in the sum of Rs.10,000/- with one or two sureties in the like amount ;

- ii) The Applicant shall attend the Kalyan Taluka Police Station, Kalyan, District – Thane on 15th and 16th September, 2015, between 10.00 a.m. to 1.00 p.m.;
 - iii) The Applicant shall not tamper or attempt to influence the complainant or any persons concerned with the case.
 - iv) The Applicant shall co-operate in the conduct of the trial.
8. The Application is allowed and disposed of in above terms.
9. It is made clear, that the observations made herein are prima facie and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
10. Parties to act upon the authenticated copy of this order.

REVATI MOHITE DERE, J.