

Anand

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

ANTICIPATORY BAIL APPLICATION NO.1163 OF 2015

Rizwan Umarkhan Shaikh alias .Applicant
Rijawan

v/s.

The State of Maharashtra .Respondent

Ms Tahera Qureshi, Advocate, for the Applicant
Mr.S.S.Pednekar, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 02.09.2015

P.C.

. Heard learned counsel for the applicant
and the learned APP for the respondent – State.

2. By this application, the applicant
seeks pre-arrest bail in connection with C.R.No.
139 of 2015 registered with the Phaltan Police
Station, Satara, for the alleged offences
punishable under Sections 465, 468, 471 r/w.34
of the Indian Penal Code, 1870.

3. According to the learned counsel for the applicant, in 2014 the applicant was interested in purchasing agricultural land for cultivation and hence pursuant thereto, he came into contact with an estate agent, Gorakh Parshuram Madane (original accused No.2), who introduced him to one person, purported to be Laxman Kenjale. Accordingly, the applicant entered into a sale deed with the original accused No.1, who purported himself to be Laxman Kenjale. The said land, in respect of which sale deed was entered into belonged to Laxman Kenjale. The said sale deed was a registered sale deed and Gorakh Madane (original accused No.2) had signed the said document, as a witness, along with one Mangesh Jadhav. The learned counsel for the applicant submitted that accordingly the applicant purchased the said land from accused No.1, purportedly Laxman Kenjale; after paying an amount of

Rs.15,60,000/-. Pursuant to the sale deed, the applicant applied to the Tahsildar for entering his name in the record of rights and for obtaining the 7/12 extract. It appears that one person, a relative of the original owner of the land Laxman Kenjale, raised an objection stating that his uncle Laxman Kenjale, the owner of the said land, had expired four years prior to the transaction. Learned counsel for the applicant submitted that the applicant on learning of the objection raised by the relative of the original owner of the land, addressed a letter to the Tahsildar on 13.07.2015, setting out the manner in which the accused Nos.1 & 2 represented to him about the said land and requested the Tahsildar to handover the land back to the legitimate owners. The said letter dated 13.07.2015 is at page No.34 of the said application. Learned counsel for the applicant further pointed out two documents; one is at

page No.36 dated 14.08.2015 and the other is at page No.45 dated 20.07.2015 respectively. She submitted that Gorakh Madane (original accused No.2) had accepted that he had himself had made the representation to the applicant and that the said sum of Rs.15,60,000/- was handed over to the accused No.1 in his presence.

4. The present FIR was lodged by the relatives of the original owner of the land on 31.07.2015 as against accused No.1, Gorakh Madane, the present applicant and another accused Mangesh. 7. According to the complainant-Ashok Nivrutti Kenjale, his uncle Laxman Ramchandra Kenjale expired on 06.02.2011. He has alleged that on 12.07.2015 he received a call from Balu Kenjale, who informed him that a sale transaction had taken place with respect to Gat No.1134 standing in the name of his deceased uncle. The said sale transaction of the land

belonging to the deceased had taken place on 19.11.2014 when in fact, the deceased had expired on 06.02.2011. The document i.e. registered sale deed of 19.11.2014 allegedly showed that a transaction had taken place between the deceased uncle and the applicant (original accused No.3). The said sale deed dated 19.11.2014 was registered with the Sub-Registrar, Phaltan on 08.12.2014. According to the complainant, the photograph in the said sale deed of his deceased uncle, was not of his uncle but of some unknown person. He has alleged that in the said sale deed, Gorakh Madane and Mangesh Adhav have signed as witness.

5. The learned counsel for the applicant submitted that in fact, the present applicant was a bonafide purchaser of the land and that the applicant himself has been cheated by the co-accused Gorakh Madane and accused No.1, who

was introduced as Laxman Kenjale. She submitted that the applicant has also filed a private complaint as against the co-accused, Gorakh Madane and others. She submits that pursuant to the order passed under Section 156(3) of the Code of Criminal Procedure, an FIR was lodged on 24.08.2015. Learned counsel also relied on a document which shows that the very same land was sold to a third party sometime in October, 2014 and even in the said document, Gorakh Madane has signed as a witness.

6. Learned APP does not seriously dispute the fact that the applicant appears to be a bona fide purchaser and a victim in the said transaction. He submitted that it appears that Gorakh Madane had introduced the applicant to the absconding accused No.1, as being Laxman Kenjale. Pursuant to the same, there was a sale deed which was executed between the applicant

and absconding accused No.1, who purported himself to be Laxman Ramchandra Kenjale. He submitted that there are documents on record which show that the same are forged & fabricated. He relied on the Identity Card issued by the Election Commission of India which shows the photograph of the accused No.1 and the elector's name as Laxman Ramchandra Kenjale (deceased). In the said election card, the father's name is shown as Parshuram Madane. According to the learned APP, the said document is a forged and fabricated document. Learned APP relied on the Identity Card issued by the Election Commission of India of Gorakh Madane himself, which shows his name as Gorakh Parshuram Madane and father's name Parshuram Madane. He submits that it is Gorakh Madane, who introduced the applicant to the absconding accused No.1, as Laxman Ramchandra Kenjale, pursuant to which a sale deed was entered into

between them. He further submitted that in October, 2014, the very same land belonging to Laxman Ramchandra Kenjale was sold to some 3rd party by a notarized document. He submitted that even in the said document, the Gorakh Madane has identified the owner of the said land to be Laxman Ramchandra Kenjale(deceased) when in fact, the photograph on the said document is of some third person, and different from the person whom he introduced as Laxman Kenjale in the present sale deed. He submitted there are documents which show that the Gorakh Madane had admitted before the Sub-Registrar that he had introduced the applicant to accused No.1 as Laxman Kenjale.

7. Perused the papers and the said documents. It appears from the documents that the applicant had purchased the land from accused No.1 and that the co-accused Gorakh

Madane had introduced accused No.1 to the applicant as being Laxman Kenjale. It also appears that on learning that the real owners of the land had raised an objection, the applicant himself wrote a letter to the Tahsildar stating that the land be transferred in the name of the original owners. Prima facie, it appears that the applicant himself has been cheated in the entire transaction.

8. Considering the nature of allegations and the material on record and the role of the applicant, 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 his furnishing P.R.Bond in the sum of Rs.15,000/- with one or two solvent sureties in the like amount;

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. It is made clear, that the observations made herein are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)

CERTIFICATE

Certified to be true and correct copy
of the original signed Judgment/order.