

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Application [ABA] No.27 of 2015

(Shrikrushna Panditrao Deshmukh

vs.

The State of Maharashtra, through P.S.O. Chandur Bazar, District Amravati)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Mr. D.S. Patrikar, Advocate for the Applicant.

Mr. D.P. Patel, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : MARCH 3, 2015.

Heard Mr. Patrikar, the learned Counsel for the applicant.

The applicant is before this Court apprehending his arrest in connection with Crime No.218 of 2014, registered at Police Station Chandur Bazar, District Amravati for the offences punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant submits that the alleged plot was initially a open plot and subsequently construction was carried out over it. The learned Counsel for the applicant submits that the applicant is occupying the constructed premises and the Panchayat taxes are also paid by the applicant. The learned Counsel invited my attention to the documents, viz. the tax receipt issued by the revenue authority in the name of the applicant placed on record at Annexure-I and

the tax receipt issued by the Gram Panchayat Office, Shirajgaon Bad showing the applicant as an occupier of the property. He submits that the applicant is ready to co-operate the investigating agency and it is not necessary to effect arrest of the applicant for custodial interrogation of the applicant.

Mr. Patel, the learned A.P.P. opposes the application. The learned A.P.P. on the basis of reply filed by the State as well as the documents collected by the investigating agency submits that the material reflects mischief played by the applicant. The learned A.P.P. further submits that the report lodged at the instance of Smt. Bayanabai, who is a lady in her advanced age, shows that she was kept in dark for years together and by playing mischief and preparing fabricated documents, the lady is sought to be ousted from her own property.

Perused the material placed on record as well as the material presented by the learned A.P.P. Though the argument of the learned Counsel for the applicant at the first blush looks attractive, the material collected by the investigating agency show a different picture. A transaction of the property resulted in the sale-deed on 07/10/1994 shows a reference to the applicant and Bayanabai as a purchaser of the property. In the process of investigation, it was revealed that on 16/01/2012, a mutation was effected. What reveals from the record is the fact when the plot was purchased jointly by the applicant and Smt.

Bayanabai. The portion though was of Bayanabai was sold to accused no.4 by a document dated 19/04/2012. Bayanabai came to know about the digging activities carried out on the spot and on enquiry, accused no.4 informed her that he is the purchaser of that plot. Bayanabai shocking with this disclosure made a report to police on 28/03/2014. No heed was paid to that report. As no action was taken, second report was lodged on 29/06/2014. As it received the same response, third report was lodged on 03/07/2014. As the police agency was a silent spectator, Bayanabai was left with no choice but to lodge a protest petition before the learned Magistrate. The material placed on record at the behest of the applicant also shows that the tax receipt issued by the Gram Panchayat refers to the open space to the effect of Rs.1250/- sq. ft. and construction over an area of 753 sq.ft. Thus, though it was admitted by the applicant to submit that the applicant constructed the open plot and was occupying, the fact is, the other part of the property, which was in the name of Bayanabai, was purchased and sale-deed was effected in the year 1994, mischief was played by preparing the documents with connivance of some revenue authority and selling out the property of Bayanabai to another accused by keeping the another accused and Bayanabai completely in dark.

Perusal of the report lodged at Police Station Chandur Bazar shows the misery of a old lady approaching the

police authority seeking redressal of her grievances at a frequent intervals, and as no action was initiated on any of the report dated 28/03/2014, 29/06/2014 and 03/07/2014, a protest petition was lodged.

Perusal of the report dated 03/07/2014 shows that earlier two reports were referred to and Bayanabai expressing her wish to construct hutment on the said plot and apprehending some mischief. The material collected in the process of investigation in the form of the photocopy of the mutation dated 16/01/2012 shows that the applicant sold the property to a person knowing very well that the applicant was not an absolute owner of the property and the same was purchased jointly by applicant and Bayanabai.

Considering the fact that there is also a role played by the revenue authority assisting the applicant, a deep probe is required to be conducted by the investigating agency. The learned A.P.P. was justified in submitting that for the purposes of further probe and investigation, to unearth the other aspect and to reveal the whole mischief played by the accused persons, the custodial interrogation of the applicant would be necessary.

Considering these aspects, in my opinion, this is not a case to grant protection in the nature of pre-arrest bail to the applicant. The application thus being meritless, the same is rejected.

Needless to state that the interim protection granted
by this Court stands vacated.

The application is disposed of as such.

JUDGE

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