

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 CRIMINAL APPLICATION NO. 4432 OF 2016

PRATAPRAO RAMRAO GHARE

VERSUS

THE STATE OF MAHARASHTRA

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Mr. N.L.Jadhav, Advocate for Applicant.

Mr. S.D.Ghayal, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 19th AUGUST, 2016

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PER COURT :

1. The applicant/accused in Crime No. 274/2016 registered at City Chowk police station, Aurangabad for the offences punishable U/ss 406 and 420 of the Indian Penal Code at the instance of Rajkumar Motiram Bansod, by this application is praying for pre-arrest bail.

2. Heard learned counsel for the applicant. He submitted that the applicant was bonafide purchaser of 81 R. land from S.No. 217. After purchasing this land from Sonawane family, he had sold out the same to various purchasers including Anjanabai Bansod by carving out plots.

Subsequently Suit was filed by members of Sonawane family against other members of said family for partition and separate possession. After compromise decree in that Suit, some of the family members of Sonawane family sold out the land to Devashis Construction Co. on 08/05/2008. Therefore, according to the learned counsel for the applicant, custodial interrogation of the present applicant is not warranted in the crime in question.

3. Learned A.P.P. opposed the application by contending that the applicant had deceived the informant by selling out the plot which was not owned by him.

4. Perused F.I.R. lodged by Rajkumar Bansod. It appears that the informant had purchased plot No. 10 from the present applicant and subsequently it was sold out to Laxmibai Gauda. Subsequently, Laxmibai sold it to one Deepali Sumit Bhuigal. The plot was ultimately found to be in possession of Devashis Construction Co. It is averred that in order to avoid litigation, applicant had paid consideration to said Deepali Bhuigal and effected sale deed of the said plot in favour of his wife.

5. Perusal of the documents annexed to the application shows that in the Suit filed by the members of Sonawane family for partition and separate possession, present applicant was not made party defendant. That Suit was compromised behind the back of the present applicant. The applicant seems to be the bonafide purchaser of the land

in question. Therefore, *prima facie*, it can not be said that element of criminality is attached to the transaction of sale of plot in favour of purchaser Laxmibai or subsequent transactions in respect of said plot.

6. In that view of the matter, liberty of the present applicant needs to be protected and his custodial interrogation is not warranted. As such, the following order.

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 274/2016 registered at City Chowk police station, Aurangabad for the offences punishable U/ss 406 and 420 of the Indian Penal Code, applicant Prataprao Ramrao Ghare be released on bail on executing P.R. Bond of Rs. 10,000/- [Rupees Ten Thousand] and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant shall not extend any threat, inducement or promise to the persons acquainted with the facts of the accusation so as to dissuade them from disclosing the same either to the police or the Court.
- (iv) The applicant shall not tamper the evidence of the prosecution.

- (v) The applicant to attend concerned police station on 30/08/2016 in between 11.00 a.m. and 1.00 p.m.

[A.M.BADAR, J.]

KNP/Cr.Apln. 4432.2016