

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

19 CRIMINAL APPLICATION NO. 4653 OF 2016

SANJAY BALIRAM PATIL

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Suvidh S.Kulkarni, Advocate for Applicant.

Mr. A.S.Shinde, A.P.P. for Resp. – State.

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CORAM : A.M.BADAR, J.

DATE : 29th AUGUST, 2016

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PER COURT :

1. Applicant/accused in Crime No. 234/2016 registered at Mukundwadi police station, Aurangabad for the offences punishable U/ss 420,406,467,468,471 of the Indian Penal Code at the instance of Sanjay Narayan Patil by this application is praying for pre-arrest bail.

2. Heard learned counsel for the applicant as well as learned A.P.P. Learned A.P.P. opposed the application by contending that the plot in question was already sold out to somebody else and the present applicant was witness to the sale deed. Still, he had attempted to sale that plot to the informant by accepting the amount from the informant.

3. Perused F.I.R. as well as papers of investigation. Informant Sanjay Narayan Patil averred that he was to purchase a plot and, therefore, present applicant proposed to sale plot No. 20 from G.No. 383 admeasuring 50 x 32 feet situated at Chikalthana, district Aurangabad for the consideration of ₹ 9 Lakh. The informant further averred that he had paid an amount of ₹ 7 Lakh to the present applicant, but the applicant did not execute the sale deed of the plot in question in favour of the informant.

4. Recitals in the F.I.R. reveals that the informant was aware of the fact that the present applicant is not the owner of the said plot No. 20, but he is having notarized agreement to sale the said plot in his favour.

5. Apart from that, it is seen that the informant had already instituted civil Suit for recovery of amount of ₹ 10,34,038/- involved in the transaction in question, including the interest. The Suit appears to be filed in the year 2015. Learned counsel for the applicant pointed out that the said Suit is registered as Spl.Civil Suit No. 152/2016 and the same is pending on the file of the learned Civil Judge [Sr.Division], Aurangabad.

6. In this view of the matter, the transaction appears to be per-domenantly of civil nature. Therefore, custodial interrogation of the present applicant is not warranted. Hence, the following order.

(i) The application is allowed.

(ii) In the event of his arrest in Crime No. 234/2016 registered at Mukundwadi police station, Aurangabad for the offences punishable U/ss 420,406,467,468,471 of the Indian Penal Code, applicant Sanjay Baliram Patil be released on bail on executing P.R. Bond of ₹ 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 shall attend the concerned police station on 11/09/2016 in between 11.00 a.m. and 1.00 p.m. and should co-operate the Investigating Officer in the investigation of the crime in question.

7. Criminal Application stands disposed of in the above terms.

[A.M.BADAR, J.]