

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

CRIMINAL APPLICATION NO.5772 OF 2016

Sanjay Rupchand Ahirrao & Anr. .. Applicants

Versus

The State of Maharashtra .. Respondent

Mr.D.B. Thoke, Advocate for the applicants.

Mr.S.D. Ghayal, A.P.P. for respondent/State.

CORAM : A.M. BADAR,J.

DATED : 20.10.2016

P.C. :-

1. Applicants/accused in Crime No. I-135 of 2016 registered with Harsool Police Station, Dist. Aurangabad, for offences punishable under sections 420, 467, 468, 471 read with section 34 of the Indian Penal Code, by this application are seeking pre-arrest bail.

2. Heard learned Counsel appearing for applicants/accused. He argued that the father of applicants had not collected any money. He had purchased 1.76 Hectare of land by registered sale-deed and thereafter plots were sold from that land. Learned Counsel further argued that the transaction with the informant was of the year 1979 and plot allotted to the informant is still in existence. My attention was drawn to the agreement placed on record

(record page No.53) to show that Pandurang Wagh was allotted plot of land bearing No. 20B/3. It was pointed out that on 17.03.2016, the Municipal Corporation had issued a notice under sections 260 and 478 of the Bombay Provincial Municipal Corporation Act to said Pandurang Wagh. My attention is also drawn to the agreement with Vinod Pawar and Archana Pawar, thereby cancelling earlier transaction. It was argued that Lahane had purchased the plot from some other vendor.

3. I have also heard learned A.P.P. He argued that the entire case is based on documentary evidence. For seizing documents, custodial interrogation of applicants is warranted.

4. Perused the F.I.R. lodged by Kashinath Bhosle, who appears to be an Advocate by profession. He reported that on 19.10.1979, he had purchased plot No.15 admeasuring 3000 sq.ft. from Rupchand Khandu Patil. He appears to be father of both applicants. According to the informant, said Rupchand wanted to establish co-operative housing society and therefore he joined hand with one Uttam Shinde. Plots were then sold to several persons. According to the informant, the plot which was purchased by him and which was bearing No.15 was sold by his vendor to one Eknath Lahane. The informant further

reported that upon examination of revenue record, he came to know that some plots were sold to 2-3 persons. It is also reported that Rupchand Patil had then transferred plots, which were already sold to others, in the name of these applicants, who are his sons as well as in the name of other relatives. According to the informant, though initially lay-out was containing 21 plots, subsequently, fresh lay-out plan was prepared carving out 35 plots. There was sale of same plots to several individuals.

5. Though it is argued that the plot sold to the informant is still available on site, there is nothing on record to show that the said plot is still in existence. List of allottees is of no concern, because from the documents placed on record, it appears that the said lay-out itself is unauthorized. Subsequently, some land from that lay-out appears to be put up for acquisition. The grievance of the informant is not limited to himself. He is pointing out that there was rampant cheating of allottees and further transfer of plots sold out to others in the name of family members of co-accused – Rupchand.

6. In this view of the matter, for effective investigation of the crime in question, the investigator will have to seize documents and for that purpose

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custodial interrogation of present applicants is necessary. In this view of the matter, no case for anticipatory bail is made out. The application is rejected.

[A.M. BADAR, J.]