

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 121 OF 2015

MR.GIRISH PIKALE.

... Petitioner

Versus

KRISHNA KAMAT AND 2 ORS.,

... Respondents

Mr. Ashwin D. Bhobe, Advocate for the petitioner.

Mr. R. Menezes, Advocate for the respondent no.1.

Mr. Mahesh Amonkar, Additional Public Prosecutor for the respondent nos.2 and 3.

Coram:- C. V. BHADANG, J.

Date:- 20th April, 2016

P.C.

Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor for the respondent nos.2 and 3. I have also heard the learned Counsel appearing for the respondent No.1.

2. By this petition, the petitioner is seeking cancellation of anticipatory bail granted to the first respondent by the Additional Sessions Judge at Margao in Anticipatory Bail Application No.23/2015.

3. The brief facts are that there is a dispute between the applicant and his brother Mr. Shailesh Pikale in which the petitioner is claiming that his brother had illegally transferred flat No.AF-3, "A"

Building in Mangirish Prasad Co-operative Housing Society at Aquem, Margao, Goa. The allegations against the first respondent is that he impersonated himself as a Secretary of the said society and issued a No Objection Certificate (NOC) dated 24/09/2009 in favour of the Shailesh Pikale for transferring the flat. The NOC was issued by the first respondent in response to the letter dated 15/09/2009 by Shailesh.

4. It appears that on the basis of a complaint dated 27/01/2014 lodged by the petitioner with Margao Town Police Station, an offence at Crime No.73/2014 was registered against the first respondent and others under Sections 448, 451, 454, 457, 380 and 109 read with Section 34 of Indian Penal Code (IPC) and the investigation is stated to be in progress. The first respondent filed an application for anticipatory bail No.23/2015 before the learned Sessions at Margao. It was contended that the applicant is falsely implicated and the custodial interrogation of the first respondent is not necessary.

5. The learned Sessions Judge, by the impugned order dated 08/04/2015, had found that admittedly, the co-accused Shailesh Pikale and Udesb Gaonkar were released on anticipatory bail on 16/07/2014. It was further found that there was no supplementary statement produced on record implicating the first respondent in the crime. The learned Sessions Judge has also noticed the minutes of

the Managing Committee Meeting of the Society held on 24/12/2000 to find that the aforesaid flat has been wrongly shown in the name of the petitioner. The learned Sessions Judge has further noticed that there is a resolution dated 30/08/2004 which shows that the first respondent was appointed as Secretary of the society in the place of one Mr. V. R. Shanbag and the said certificate is signed by the father of the complainant and the co-accused Shailesh as Chairman of the society. Thus, the learned Sessions Judge has prima facie found that the first respondent was shown to be Secretary of the society. The learned Sessions Judge has also found that there was considerable delay in lodging the complaint in as much as although in the complaint it was alleged that some time in March, 2013, the said flat was ransacked and certain important articles and documents, including the Sale Deed dated 16/03/1990 pertaining to office premises of the petitioner, were missing, the complaint was lodged only on 27/01/2014.

6. The learned Sessions Judge has found, and to my mind rightly so, that the dispute is predominantly of a civil nature and there is no need for custodial interrogation. There are no allegations at the instance of the State/ Investigating Officer of non-compliance with the conditions of the bail and/or of its misuse. In such circumstances, no case for interference is made out.

7. At this stage, the learned Counsel for the petitioner states that

there is a fresh complaint lodged by the petitioner with the Economic Offences Wing at Mumbai on 10/03/2016. It is evident that the present matter only concerns with the Crime No.73/2014 registered with Margao Town Police Station and I find that in the absence of any reason to interfere with the order granting anticipatory bail, the Criminal Writ Petition is hereby dismissed.

C. V. BHADANG, J.

SMA