

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 141 OF 2016

Navin Gavate

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

* * * * *

Mr. Sachin Deokar i/by. Mr. V.V. Purwant, Advocate for the applicant.

Smt. Rutuja Ambekar, Advocate for the respondent, State.

CORAM :- N. W. SAMBRE, J.

DATED :- 1ST DECEMBER, 2016.

P.C. :-

1). The matter has been placed on the board for speaking to the minutes of the order dated 22nd November, 2016. The learned Counsel for the applicant, states that in para-2 of the order, the date has been incorrectly mentioned as “17.12.1911” instead of “17.12.1999”. The said date be deleted to be replaced with “17.12.1999”. The necessary corrections be carried out and the order be read accordingly.

(N.W. SAMBRE, J)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 141 OF 2016

Navin Moreshwar Gavate	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

Mr. Shirish Gupte, Senior Advocate i/b Mr. V.V. Purwant, Advocate for the Applicant.
Ms. Rutuja Ambekar, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 22nd NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.229 of 2015 registered with non-applicant for the offences punishable under sections 120B, 420, 457, 458, 471, 405, 418, 474 of the I.P.C.

2 The learned senior counsel Shri Gupte would urge that the applicant is entitled for bail particularly in the background of following factual matrix that the land in question was in possession of his mother and there is sanctioned letter issued by Gram Panchayat Digha, in her favour on **17.12.1999**. In addition, he would also rely upon power of attorney executed by his maternal uncle permitting him to develop the property in question. Shri Gupte then would rely upon the report of the Talathi which according to him, could be taken into account for the purpose of inferring that the applicant is in possession of the land in

question for more than four decades. In addition, it would urge that the applicant is very much available for the investigation as he has deep roots in the society and is under protection of this Court for quite a long time. As such he prayed for grant of bail.

3 The learned A.P.P. opposed the application on the ground that applicant is a third time Corporator for the said area. In addition, submission is made that all the documents which are relied upon investigation was found to be bogus.

4 Having considered the submission from the record it depicts that the land Gat No.180 appears to be gayran land. The diversion of use of such land is not permitted for any other purpose much less the purpose for which applicant has used it as there is an embargo by the Supreme Court judgment.

5 Apart from above it is to be noted that the land was diverted for use by the Government to the M.I.D.C. and there is neither any sanction or commencement certificate obtained from the State Government or the competent authority for the purpose of carrying out development.

6 What could be inferred from the factual matrix as reflected in the present case and the case diary that the applicant has practice fraud on the purchasers so also the Government and has got unjust enrichment out of the same.

7 Having noted that there is large scale encroachment on the government land and also illegal development, Division Bench of this Court is required to step into and has ordered certain measures to be taken recourse to.

8 On the above referred background in my opinion there is strong prima facie case against the applicant. The Application does not deserves any protection from this court. The application is rejected.

9 The learned counsel at this stage submits that the ad-interim protection ordered by this Court is continued for a period of four weeks. The prayer is strongly opposed by the learned A.P.P. In the interest of justice and as the applicant was under ad-interim protection, it will be appropriate to extend the protection for a period of three weeks.

(N.W. SAMBRE, J.)

Note : The order is corrected pursuant to speaking to minutes order dated 1st December, 2016.