

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.145 OF 2016

Gilbert John Mendonca

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr.Amit Desai, Sr. Advocate with Narendra V. Sharma with
Mr.Akshay Kapadia for Applicant
Mrs.P.P. Shinde, APP, for Respondent – State
Mr.Ganesh Kekan, API, Kasarvadavali Police Station – present

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MAY 5, 2016**

P.C.:

1. The applicant-accused is facing prosecution for the offences punishable under sections 465, 467, 468, 471, 420 and 34 of the Indian Penal Code in C.R. No.I-251 of 2015 registered on 9.11.2015 at the instance of one Sunilkumar Uttamchand Samdadiya.

2. It is the case of the prosecution that the complainant is working in the office of the Sub-Registrar. He has received a letter from Tehsildar, Thane by way of enquiry letter dated 4.11.2015 as to whether the document which is registered at 930 of 1981 was registered and executed from their office or not and photocopies of the said document were sent alongwith the said letter.

3. After enquiry, the complainant found that the photocopy supplied from the office of the Tehsildar of 930 of 1981 and the document which is registered at 930 of 1981 were totally different. The contents in both the documents were different. The original document 930 of 1981 was between one Eknath Gajanan Pithala and M/s. Gala Constructions in respect of a land at Pachpakhadi, Thane i.e., hissa No.12 C.S. No.05A admeasuring 450 sq.yards. However, the photocopy in a duplicate registered document 930 of 1981 was pertaining to survey No.79/2 of land of 16 hectares 49.5 acres and survey No.80/2 of 16 hectares, 21 acres and 3 ares. Siloo Mistri is shown as an owner-vendor and one Gilbert Mendonca was shown as a purchaser. He found that Gilbert Mendonca has abused the original registration number No.930 of 1981 with the help of some lady and created a forged document and has cheated and misled the government. He, therefore, gave complaint against this applicant-accused Gilbert Mendonca and offence is registered.

4. Mr.Amit Desai, the learned Senior Counsel for the applicant, has submitted that the applicant-accused is innocent. The applicant-accused has not committed any offence. In fact, he is a victim of this transaction and he is deceived by Siloo Mistri and he has not executed any such document. He genuinely believed that the land belonged to Siloo Mistri and has entered into transaction so he is to be granted pre-arrest bail.

5. Learned Prosecutor has opposed this application. The learned Prosecutor has submitted that the accused Gilbert Mendonca has used the forged agreement to grab the land. She submitted that it is a clear case of forgery and fraud and the applicant-accused has created a bogus document and he played fraud on the government and other persons. There is one more case registered against this accused which is at C.R. No.I-42 of 2016 with Kasarvadavali police station, Thane for similar offence of cheating and forgery. She submitted that on the basis of this document, this accused has represented before the civil Court and the High Court by filing civil suit and writ petition in the name of Siloo Mistri in respect of the same land. The learned Prosecutor has further submitted therefore alongwith this case, another case C.R. No.I-42 of 2016 is also registered against the applicant-accused for using this forged document. The accused filed a bogus suit through a lady who impersonated as Siloo Mistri in the civil Court and after pseudo compromise obtained consent decree in respect of the said land. Thus, he played fraud on the civil Court so also on the High Court. She submitted that 16 cases including under section 302 of the Indian Penal Code are pending against him out of which he is acquitted in 4 to 5 cases. However, all other cases are pending. He is an ex-MLA and using his political influence as well as muscle power and will try to pressurise the witnesses.

6. Perused the FIR, the documents produced before me including the original registered document. The registered conveyance deed of 930 of 1981 is different than the duplicate created by accused Gilbert Mendonca. From the FIR, it is clear that it is not Siloo Mistri, who has prepared the document but prima facie, the applicant-accused Gilbert Mendonca, has doctored and presented this forged document and on the basis of this forged document, he wanted to grab the land. He has also prepared a bogus Index II of the said property with the help of government employees in the office of Tehsildar. There is sufficient evidence to show that the applicant-accused has committed this offence of forgery and attempted to cheat the government and so also, the original land owner of land Nos.79/2 and 80/2 of Borivade village.

7. One more important aspect of this matter is also to be taken into account and is highlighted to understand the gravity of the act. The accused Gilbert Mendonca prepared the forged registered document with a motive to grab the land admeasuring 108 hectares. The valuation of the land is approximately Rs.534 crores and 80 lakhs. He is also involved in C.R. No.I-42 of 2016 registered at Kasarvadavali police station, Dist. Thane. From the statements of his advocate Shailesh Thakur and other witnesses, it is apparent that the applicant-accused is not a victim of this forgery but he is a maker of the forged document and real Siloo Mistri who

is the land owner and real purchaser Samarth Developers are the victims of his criminal act. The applicant-accused has subsequently used this document for filing civil suit in Civil Court at Thane being Suit No.469 of 2015 for specific performance against Siloo Mistri and putting some fake lady in her place, he misguided the Court and obtained consent decree in respect of the said land by playing fraud upon the Court. All these activities are in *res gestae* with motive to grab a valuable land. It is learnt from the record and submissions that he is an ex-MLA of one political party therefore he being a representative of people, such offence of playing fraud upon the government offices and also on the Court committed by him is more serious.

8. Under such circumstances, the Anticipatory Bail Application is rejected.

9. Learned Senior Counsel appearing for the applicant-accused prays for continuation of interim protection granted earlier as he wants to challenge the order in the honourable Supreme Court. For the reasons mentioned above, it is not a case wherein the protection can be granted or continued. Hence, the oral prayer for continuation of the protection is refused.

(MRIDULA BHATKAR, J.)