

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.175 OF 2016

Amar Ashok Gaikwad & Anr.	...	Applicants
Vs.		
The State of Maharashtra	...	Respondent

Mr. Kuldeep Patil, Adv. i/b. Prashant Patil, Adv. for the applicants.
Mr. Y.M. Nakhawa, APP for the State.
Mr. P.S. Bhagat, Police Naik, Ranjangaon, MIDC Police Station
present.

CORAM : SMT ANUJA PRABHUDESSAI, J.
DATE : 29th January, 2016.

P.C. :

1. This is an application for anticipatory bail filed by the aforesaid applicants apprehending their arrest in Crime No.162 of 2015 registered with Ranjangaon Police Station for offences punishable under Sections 306 & 420 r/w. 34 of the IPC.

2. The case of the prosecution in brief is that the deceased had agreed to sell the land ad-measuring 4R from Gut No.60 in favour of Sanjay Borkar and others. It is alleged that the applicants had forged the sale deed dated 21th October, 2015 and thereby fraudulently transferred the land ad-measuring 1 H. from Gut No.78 instead of land ad-measuring 4 R from Gut No.60. It is alleged that

the applicants herein had served as middlemen to the said transactions and had also signed the sale deed as witness. The case of the prosecution is that the deceased was mentally disturbed and therefore committed suicide on 24th October, 2015. The applicants along with other co-accused therefore have alleged to have been abetted suicide.

3. Mr. Patil, the learned counsel for the applicants has submitted that the applicants herein had served as middlemen and had signed the sale deed dated 21st October, 2015 as witnesses. He stated that the said sale deed was confirmed by the son of the deceased as well as by the brother of the deceased and as such prima facie there is no material to indicate that the purchaser had played any fraud or that he had cheated the deceased.

4. Mr. Nakhawa, the learned APP for the State submits that the FIR as well as dying declaration prima facie reveals that the deceased had intended selling only 4R land from Gut No.60 and that the applicant along with the other co-accused played fraud upon the deceased and thereby transferred land ad-measuring 1H from Gut No.78.

5. I have perused the records and considered the submissions advanced by the learned counsel for the applicants and learned APP for the State. The material on record prima facie reveals that on 24th October, 2015 said Dattatraya Darwade had set himself on fire. He was admitted in the hospital and he succumbed to the injuries on 29th October, 2015. The daughter of the deceased had lodged FIR on 6th November, 2015 alleging that the applicant and other co-accused herein had abetted suicide of her father Dattatraya. The complainant has stated that on 20th October, 2015 her father Dattatraya told her that he had sold the land ad-measuring 4R from Gut No.60 to some people from Pune. She has further stated that on 23rd October, 2015 her father had told her that he was in need of money to construct a house, hence with the consent of his brothers, he had agreed to sell 4R land from Gut No.60. She has further stated that her father had told her that Pradeep @ Pandurang had told him that some people from Pune were interested in purchasing the land and thereafter he and other brothers had agreed to sell the property to the said purchasers. She claims that her father had told her that on 20th October, 2015 said Pradeep and others had got one sale deed prepared in favour of Sanjay Borkar and other co-accused. Her father had executed the sale deed but on the very next day he learnt that the

said sale deed was fabricated. His signature was forged and instead of land ad-measuring 4R from Gut No.60 the land ad-measuring 1H from Gut No.78 was transferred in favour of the said Sanjay Borkar and other co-accused. The first informant has stated that the applicant and other co-accused had cheated her father and not being able to face the situation her father had committed suicide.

6. A perusal of the sale deed which was duly registered before the Sub-Registrar prima facie indicates that the deceased had sold to Sanjay Borkar & other co-accused, land ad-measuring 1R from Gut No.78. The brothers of the deceased were consenting parties to the said sale deed.

7. It is pertinent to note that the statement of the deceased was recorded on 24th October, 2015. A perusal of the said statement prima facie reveals that on 16th October, 2015 there was altercation between the deceased and one Suresh Bhujbal. The deceased had further stated that at the instance of Pradeep, he had agreed to sale land ad-measuring 4R from Gut No.60 to the applicants herein. He had further stated that his nephew has received the consideration and had refused to pay the money to him and later on he had learnt that

instead of land ad-measuring 4R from Gut No.60 the land ad-measuring 1R from Gut No.78 was transferred in favour of Sanjay and other co-accused. The deceased had also stated that on 22nd October, 2015 Suresh Bhujbal had assaulted his nephew Somanath Darwade and that he was mentally disturbed on account of the said incident and hence he had set himself on fire.

8. The dying declaration prima facie does not indicate that the applicants had committed any such acts or omissions as envisaged under Section 107 of the IPC, and or instigated him to commit suicide. The applicants had only acted as the middlemen and had signed the sale deed as a witnesses. The nature of the allegations levelled against the applicants would therefore not justify custodial interrogation. The applicants are the permanent residents of Pune and there is no possibility of the applicants absconding and thwarting the course of justice. The applicants have no criminal antecedents. Considering all the above facts and circumstances, the applicants are entitled for bail.

9. Hence the application is allowed on the following terms and conditions.

1. In the event of arrest of the applicants in Crime No.162 of 2015 registered with Ranjangaon Police Station, the applicants shall be released on bail bond of Rs.25,000/ (Rupees Twenty Five Thousand Only) each with one surety in the like amount to the satisfaction of the JMFC, Shirur.
2. The applicants shall report to the investigating officer for 4 days from 10 am to 1 pm from receipt of this order and further as and when required by the investigating officer for the purpose of the interrogation.
3. The applicants shall not leave Pune district till filing of the chargesheet without prior permission of JMFC, Shirur.

(ANUJA PRABHUDESSAI, J.)