

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.232 OF 2016

Mr.Babu Munna Puran Singh ... Applicant
Vs.
The State of Maharashtra & anr. ... Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.233 OF 2016

Mr.Namdeo Paraji Adhav ... Applicant
Vs.
The State of Maharashtra & anr. ... Respondents

WITH
ANTICIPATORY BAIL APPLICATION NO.234 OF 2016

Shri Gopal Kachhomal Chhabria ... Applicant
Vs.
The State of Maharashtra & anr. ... Respondents

AND
ANTICIPATORY BAIL APPLICATION NO.235 OF 2016

Mr.Chandrabhan Puran Singh ... Applicant
Vs.
The State of Maharashtra & anr. ... Respondents

Mr.Nitin P. Dalvi for the Applicants in all ABAs
Mr.G.S. Godbole, i/b Drupad S. Patil and Akshay Petkar for Intervener /
Respondent No.23 in all ABAs
Ms.S.S. Kaushik, APP, for Respondent – State
Ms.Suman Chavan, PI, Thane City – Economic Offences Wing – present

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: MARCH 28, 2016

P.C.:

1. As all these applications pertain to the same C.R., they are taken up together and decided by the present common order. The applicants/accused are facing prosecution for the offences punishable under sections 420, 465, 467, 468, 471 r/w 34 and section 120B of the Indian Penal Code in C.R. No.I-263 of 2015 registered with the Hill Line police station, Thane. The offence is registered at the instance of Dr.Ramkrishna Dhanraj Patil on 2.9.2015. It is the case of the prosecution that the complainant is the Chairman/President of a Trust namely Mashurashram at Goregaon (East), Mumbai. The Trust is the owner of 27 acres land admeasuring 27 acres at Survey No.17, hissa No.2/7, Ambarnath. Mr.Jagannath Vishnu Gadre was a caretaker of the land. Jagannath Gadre entered his name in the property card by keeping the trustees in dark. Thereafter, on 13.8.2015, Jagannath Gadre, the co-accused, entered into sale deeds for the said land with one K.G. Infrastructure, a partnership firm of the applicants/accused Shri Karan Prakash Gurnani, Shri Chandrabhan Puran Singh and Shri Gopal Kachhomal Chhabria, the applicants/accused before the Court. Shri Babu Munna Puran Singh, the applicant-accused, has signed the said sale deeds as a witness. The said land is owned by the Trust and under the Bombay Public trust Act, NOC of Charity Commissioner is necessary for the alienation of the property of the Trust. Though no such permission

was obtained from the Charity Commissioner, the co-accused Gadre sold this land by registered deed of conveyance on 13.8.2015 to the partnership firm of the applicants/accused i.e., KG Infrastructure. The said transaction is illegal and it has caused wrongful loss to the Trust. It is the case of the prosecution that at the time of registration of the Deed of Conveyance, a forged document i.e., a letter of Superintendent of the Charity Commissioner dated 13.12.2014 addressed to one of the accused Chandrabhan Puran Singh was issued, wherein a false and forged statement that Brahmachari Masurashram having address at Survey No.17, hissa No.2/7, is not registered with the Charity Commissioner, was mentioned. Hence, the complainant gave the FIR with the police.

2. The learned Counsel for the Applicant has submitted that applicant-accused Babu Munna Puran Singh has nothing to do with the property as he is only a signatory as a witness to the Deed of Conveyance. He further submitted that the other three applicants/accused are the partners of the KG Infrastructure and bonafide purchasers of the said property. They purchased this property for Rs.90 lacs and the payment of this amount is paid by cheque and is deposited in the account of Mr.Gadre. The total consideration, it is submitted, was Rs.1,50,00,000/-. The learned Counsel has submitted that the applicants/accused are innocent. It is further submitted that interim protection was granted to the applicant and they have been attending the police station.

3. Both the learned Prosecutor and the learned Counsel for the Complainant have opposed these applications and submitted that though the property belonged to the Trust, NOC of the Charity Commissioner is required for alienation of the property. The sale of the property is a conspiracy by the applicant-accused alongwith the co-accused Mr.Gadre. It was pointed out by Mr.Gadre that on 14.8.2015, i.e., immediately on the next day of the Deed of Conveyance, he gave a complaint to the Deputy Commissioner of Police, Ulhasnagar that he was forced to execute the conveyance of the property of the Trust by Chandrabhan and Gopal Chabria and therefore there was danger to his life from these applicants/accused. It was argued by the learned Counsel for the complainant and the learned Prosecutor that the applicants/accused have specific involvement in the crime. Though they were aware that this property belonged to the Trust and no permission was given by the Charity Commissioner to sell the said property, they entered into this agreement. It is further submitted that the amount was deposited in the account of Gadre and the police have collected evidence to show that the two accused, namely, Chandrabhan and Karan were caught in the CCTV footage when they withdrew Rs.10 lakhs from the account of Gadre and it is argued that these applicants/accused have committed this offence by way of conspiracy.

4. Perused the FIR, the relevant documents which are relied on and pointed out by the learned Counsel for the parties. The land is a trust property and NOC was not obtained from the office of the Charity Commissioner. So, prima facie, the transaction appears to be illegal. The letter dated 31.12.2014 was issued by the Superintendent of the Charity Commissioner. It is addressed to Chandrabhan. In a document produced by the prosecution dated 5.3.2016 by the office of the Charity Commissioner addressed to the Police Inspector wherein it is mentioned that the letter dated 31.12.2014 was not issued from the office of the Charity Commissioner. This prima facie shows that the letter dated 31.12.2014 is forged. The signature of the Superintendent is forged by somebody. This letter is addressed to one of the accused Chandrabhan Puran Singh and he is a beneficiary of the land wherein the NOC of the Charity Commissioner is not obtained and hence, custodial interrogation is required for effective investigation. Hence, pre-arrest bail application of Chandrabhan Puran Singh i.e., Anticipatory Bail Application No.235 of 2016 is rejected.

5. Insofar as the other three Anticipatory Bail Applications are concerned, applicant-accused Babu Munna Puran Singh is a signatory as a witness to the deed of conveyance and he is the brother of Accused Chandrabhan Pura Singh. The other two accused Namdeo Adhav and

Gopal Chhabria, are the partners of KG Infrastructure and they being partners of the said firm, have purchased and signed the documents and they are the beneficiaries of the said transaction. Considering the role attributed to them, I am of the view that their custodial interrogation is not required.

6. Hence, Anticipatory Bail Applications of the three accused i.e., Shri Babu Munna Puran Singh, Shri Namdeo Paraji Adhav and Shri Gopal Kachhomal Chhabria in Anticipatory Bail Application Nos.232 of 2016, 233 of 216 and 234 of 2016 are allowed on the following terms:

- i) In the event of arrest, the applicants-accused, namely, Shri Babu Munna Puran Singh, Shri Namdeo Paraji Adhav and Shri Gopal Kachhomal Chhabria shall be released on bail upon furnishing P.R. Bonds in the sum of Rs.25,000/- each, with one or two solvent sureties in the like amount;
- ii) The said applicants-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Wednesday from 4pm to 6 pm, for a period of one month or till filing of chargesheet, whichever is earlier;
- iii) The applicants-accused shall not tamper with the evidence or pressurise the complainant;

- iv) The applicants-accused shall not indulge into any criminal activity;
- v) The applicants-accused shall not abscond or leave India without prior permission of the Court and furnish their permanent address to the Investigating Officer alongwith documentary proof of their address;
- vi) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

(MRIDULA BHATKAR, J.)