

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 634 OF 2016

Karan Prakash Gurnani	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. B.G. Tangsali, Advocate for the applicant.

Ms. A.T. Javeri, APP for the State.

Mr. G.S. Godbole a/w. Mr. Drupad Patil, Mr. Akshay Petkar, Advocate for the original complainant.

P.I. Suman Chavan, Economic Offences Wing, Thane City present.

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

DATE: **7th April, 2016.**

P.C.:

This Application is moved for pre-arrest bail, as the applicant/accused is facing charges under sections 420, 465, 467, 468, 471 r/w. section 34 and 120B of the Indian Penal Code. The offence is registered at C.R. No. I-263 of 2015 with Hill Line Police Station, Ulhasnagar, District Thane.

2. Earlier Anticipatory Bail Applications of co-accused Babu Munna Puran Singh, Namdeo Paraji Adhav, Gopal Kachhomal Chhabria and Chandrabhan Puran Singh were decided by this Court on 28th March, 2016. The Anticipatory Bail Applications of Babu Munna Puran Singh, Namdeo Paraji Adhav and Gopal Kachhomal Chhabria were allowed and Anticipatory Bail Application of Chandrabhan Puran Singh was rejected.

3. 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, Ambernath. 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 applicant/accused Shri Karan Prakash Gurnani, Shri Chandrabhan Puran Singh and Shri Gopal Kachhomal Chhabria. Shri Babu Munna Puran Singh, co-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 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.

4. The learned counsel for the applicant/accused has submitted that the applicant-accused is innocent. He has not committed any offence. His Anticipatory Bail Application is to be considered on parity, as he along with Namdeo Adhav, Gopal Chhabria are the partners of K.G. Infrastructure and bonafide purchasers of the said property. They have purchased this property for Rs.90 lacs and the payment is made by cheque and is deposited in the account of Mr. Gadre. The total consideration was Rs.1,50,00,000/-. As per the allegations made by the prosecution, the applicant/accused was present along with Chandrabhan Singh at the bank and it is caught in the CCTV footage, however, the learned counsel submitted that the applicant is having an account in Nav Jeevan Cooperative Bank Ltd. and therefore, his presence at the bank cannot be considered as a circumstance against him.

5. 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 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 applicant/accused 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.

6. 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. It is necessary for the police to find out who has forged the documents. Though other two persons, i.e., Gopal Chhabria and Namdeo Adhav are also the partners of K.G. Infrastructure, they were not seen in the CCTV footage when the amount of Rs.10 lakhs were withdrawn from the Nav Jeevan Cooperative Bank. The applicant/accused is facing further allegations that he along with Chandrabhan withdrawn the amount from the account of accused no. 1 and thereafter he deposited the same in his account. Under such circumstances, I do not find that it is a case to grant pre-arrest bail to the applicant/accused. Hence, the Application for Anticipatory Bail is rejected.

(MRIDULA BHATKAR, J.)