

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 675 OF 2016

Mr. Satish J. Yadav Vs. The State of Maharashtra

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| Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders |
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Mr. Ram Upadhayay i/by Law Competere Consultus for the applicant.

Mrs. S. S. Kaushik, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 14th October, 2016

P.C.

The applicant is apprehending arrest in CR No. I-33/2016 registered with Nalasopara Police Station, District- Palghar under Sections 420, 465, 468, 471, 120B of the Indian Penal Code and under Section 53 and 54 of the MRTP Act.

2. The first information report is lodged by Y. Shiva Reddy, Dy. Director of Town Planning Department, Vasai Virar Municipal Corporation. It is the prosecution case in brief, that the applicant is a developer by profession and conducts his business in the name and style as Mourya Builders. The applicant took over the development rights of land bearing of survey Nos.355, 356A, 356B and 358 from M/s. Vardhaman Constructions. It is the prosecution case that the Municipal Corporation had granted permission to

construct 10 bungalows of ground plus one storey on the said survey numbers, however, by forging, fabricating or preparing bogus documents, the applicant in conspiracy with other accused persons constructed ten buildings of ground plus four floors. That, the applicant in furtherance of the criminal conspiracy prepared fabricated documents thereby showing additional FSI and subsequently sold the flats to various persons. It is the further prosecution case that the commencement certificate of the said buildings and other related documents are bogus documents on the basis of which the construction of the said buildings is carried out. That, the applicant in conspiracy with other accused persons while selling the said flats annexed the bogus documents to the agreement and committed the act of cheating as against the purchasers.

3. The record reveals that after completion of investigation the police have submitted charge sheet by showing the applicant as an absconding accused.

4. The learned counsel for the applicant submitted that the applicant has taken over the development rights from Mr. Robert Tuscan of Vardhaman Constructions. That, the commencement certificate was already in existence before taking over the same and therefore, the applicant cannot be held responsible for the same. He further submitted that the normal terms and conditions of the business which are prevailing in the market the applicant trusted upon Mr. Tuscano and constructed the buildings.

He submitted that the applicant has invested Rs.1.50 crores in the said project and he himself is the victim of the conspiracy by the other accused persons. He further submitted that the applicant has attended the Investigation Officer since April,2016 and there is no further need of his custodial interrogation. He therefore, prayed that the applicant may be granted pre arrest bail.

5. At the out set, it is noted here that there is a spate of illegal constructions within the jurisdiction of Vasai Virar Municipal Corporation and the Division Bench of this Court has taken a serious note of the same, in a public interest litigation. The first information report and the investigation carried out thereon clearly reveals that though the basic permission was granted to construct 10 bungalows of ground plus one storey structure however, the applicant in conspiracy with other accused persons by forging documents or by using bogus documents constructed structured of 10 buildings of ground plus four storey. The investigation further reveals that the basic documents and other relevant documents submitted for obtaining permission were forged and fabricated documents. The investigation clearly reveals that the applicant is the partner of M/s.Mourya Builders and in conspiracy with other accused persons has committed the present crime. The applicant is also beneficiary of the fruits of crime.

6. After taking into consideration the serious

allegations against the applicant and the gravity of the offence, this Court is of the view that this is not a fit case to grant pre-arrest bail to the applicant. Application is accordingly dismissed.

7. At this stage, the learned counsel appearing for the applicant submitted that the present order may be stayed for a period of four weeks from today as the applicant intends to prefer an appeal in the Hon'ble Supreme Court. The learned APP. vehemently opposed the said prayer. As the present application is decided on its merits today and after taking consideration the gravity of the offence, I am of the considered view that the said prayer cannot be granted and accordingly rejected.

(A.S.GADKARI, J.)