

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.867 OF 2016

Dilip Magan Patel ..Applicant.
V/s.

Union Territory of Dadra and Nagar
Haveli and Anr. ..Respondents.

Mr.M.K. Kocharekar i/b. Ms.Vrishali R. Raje for the applicant.

Mrs.P.H.Kantharia (PP) with Mr.S.S.Pednekar, APP for
respondent No.1-State.

Mr.S.V. Marvade for original complainant.

Mr.A.A.Dias, Police Sub-inspector, Police Station, Silvassa.

CORAM : AM.BADAR, J.

DATED : 6TH JUNE, 2016

P.C. :-

1. This application under section 438 of the Criminal Procedure Code, 1973 is filed by the applicant / accused in Crime No.16/16 registered with Silvassa police station on 22nd January, 2016 for offences punishable under section 420, 467 and 468 of the Indian Penal Code, 1860.

2. Heard the learned counsel for the applicant /

accused. By taking me through the documents annexed with the application, the learned counsel for the applicant pointed out that after taking due permission from the Collector and as per the instructions in writing of the Mamlatdar, sale deed of the land in question was executed by the vendor in favour of the wife of the applicant / accused. The learned counsel for the applicant / accused further argued that thereafter in the year 2006, Mamlatdar had ordered for effecting the mutation in favour of the wife of the present applicant. However, subsequently, one Yogesh Patel claimed himself to be the co-owner of the land in question and inquiry was conducted by the police wherein it is alleged that the applicant / accused had fabricated the entry in the revenue record thereby deleting the name of Yogesh Patel and entering the names of his two sons. The learned counsel for the applicant further argued that the 7/12 extracts of the land in question reflects the name of wife of the applicant as the sole owner. He further argued that way back in the year 2006 wife of the applicant / accused had informed the Mamlatdar that she is the sole owner of the land in question and no changes should be done in the revenue record.

3. As against this the learned Public Prosecutor appearing for the non applicant Union Territory of Dadra and Nagar Haveli vehemently argued that the prosecution is not disputing the execution of the sale deed but according to the prosecution case, there is interpolation of the revenue record at the instance of the applicant / accused who is a Talathi. The learned Public Prosecutor further argued that though the applicant / accused may be a Talathi of some other area but as office is same, he had every occasion to fabricate and forge the entries in the revenue record in order to enter the names of his own sons. According to the learned Prosecutor, the sample handwriting of the applicant / accused was collected and it was compared by the Experts with the disputed documents and on receipt of the opinion of the Handwriting Expert, the crime in question came to be registered. Therefore, according to the learned Public Prosecutor, this is not a fit case to grant pre-arrest bail.

4. I have also heard the learned counsel appearing for Yogesh Patel. He argued that Yogesh Patel is a friend of the applicant and taking advantage of this position, the applicant had removed documents from the record. The learned counsel

further argued that the Mamlatdar has now passed an order directing the mutation of name of Yogesh Patel in the revenue record.

5. This Court by order dated 17th May, 2016 had granted interim protection to the applicant and the learned Public Prosecutor has fairly accepted the fact that the applicant has attended the Investigating Officer in terms of the order passed by the Court.

6. Perusal of the communication dated 24th August, 2006 issued by the Mamlatdar goes to show that the Collector has granted permission to the wife of the present applicant to purchase the agricultural land in question. The applicant has also placed on record the order of the Collector at page 36 of the record. The sale deed of the concerned land executed in favour of the wife of applicant is also placed on record which goes to show that Sadhanaben wife of the applicant / accused had purchased the land for valuable consideration. The 7/12 extracts of the land in question reflects the name of the wife of the present applicant.

7. The sample handwriting of the applicant so also the disputed documents are already examined by the Handwriting Expert. Thus, major part of the investigation is already over. The case of the prosecution is based on documentary evidence and the same is already collected. In this view of the matter, I am of the opinion that the custodial interrogation of the applicant / accused is not at all warranted. As such, interim order dated 17th May, 2016 is confirmed on the same terms and conditions. In addition, the applicant is directed to report to the Investigating Officer as and when called by him for the purpose of investigation and he shall co-operate with the Investigating Officer.

8. As a condition, the applicant shall not tamper with the prosecution evidence and he shall not influence the prosecution witnesses.

9. The application is disposed of accordingly.

(A.M.BADAR, J.)