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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.849 OF 2016
WITH
CRIMINAL APPLICATION NO.414 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.849 OF 2016

Anandkumar Haridas Soni and anr	 Applicants
V/s.	
The State of Maharashtra	 Respondent

and

Sandip Sunil Kumar	.. Intervener.
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Mr. A. P. Mundargi, Senior Advocate I/by Abhijit B. Kadam, for the Applicant.

Mr. Deepak Thakery, APP for the Respondent State.

Mr. Ameya Lambhate, h/f Himanshu Kode, for the intervener.

CORAM : A. M. BADAR, J.

DATE : 5th JULY, 2016.

P.C. :

1. Heard the learned counsel for applicants.
2. The learned Senior Counsel appearing for the applicants submits that the entire transaction is predominantly of civil character and no crime can be attached.

3. I have also heard the learned counsel for the informant. He argued that initially there was an agreement by the agriculturists with the informant for sale of the developed plot as and when made available by CIDCO. However, in the submission of learned counsel for the informant the said agreement was flouted by agriculturists which resulted in filing of suit for specific performance of contract by the informant which is still pending. The learned counsel further argued that applicants being builders are expected to search for title and then only enter into agreement for purchase of immovable property. He further argued that applicants had threatened the informant with dire consequences.

4. The learned APP opposed the application.

5. Perused the F.I.R. lodged by informant Sandip Kumar on 23.4.2016. The averments in the F.I.R. are to the effect that on 9.10.2014, there was agreement in respect of plot No.35, Sector 9, Ulve admeasuring 2400 sq. feet and Plot No.A-6, Sector No.16 at Ulve admasuring 900 sq. feet between the informant and members of Mhatre family as well as Arnav Singh. At this juncture, it is to be noted that land of agriculturist was acquired by CIDCO and as a part of consideration, agriculturist is entitled to 12.5% of the land acquired in the shape of developed plot. In the year 2004, no such developed plot was delivered to the agriculturist with whom informant entered into agreement. The recitals in the F.I.R. further shows

that subsequently in the year 2010, agriculturist refused to act on the agreement with the informant and accordingly as submitted by the learned counsel for the informant Civil Suit is pending between the parties. It is seen that thereafter the agriculturist sold out the land to one Omprakash Sharma on 3.8.2010. Subsequently Omprakash Sharma as seen from the F.I.R. had sold out that land on 8.9.2010 to Kantilal Hansraj Bhanushali and Bhopat K Chheda. Subsequently it appears the present applicants have purchased the land in question.

6. True it is that the informant had issued public notice somewhere in the year 2014 in respect of pendency of civil suit, but applicants appear to be prima facie bona fide purchasers of the land in question. Even otherwise suit for specific performance of contract is reportedly pending. Ultimately parties will be bound by the decree that may be passed in the said suit.

7. In this view of the matter, transaction appears to be predominantly of civil character and as such custodial interrogation of the present applicants is not warranted and therefore, the order.

Order

- I) The application is allowed.
- II) In the event of arrest of applicants/accused, in C.R.No.30 of 2016, registered with Nhava Sheva Police Station, District: Raigad, for offence punishable under Sections 420, 465, 467,

468, 471 read with 34 of the Indian Penal Code, they be released on bail on on their executing P.R. Bonds in the sum of Rs.10,000/- by each of them and on their furnishing sureties in the like amount.

III) The applicants shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

IV) The applicants shall attend the concerned police station on 10.07.2016 and 17.07.2016 in between 11.00 a.m. to 1.00 p.m., and shall co-operate the Investigating officer.

V) The applicants shall not tamper with the prosecution evidence in any manner.

8. In view of disposal of Bail Application, pending applications if any are disposed of.

[A. M. BADAR, J.]