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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1026 OF 2016

Dr. Kamal Mulshiram Kohli and Ors.	..Applicants.
V/s.	
State of Maharashtra	..Respondent.

Mr.Laxman P. Kanal for applicants.

Mrs.Veera Shinde, APP for respondent-State.

Mr.R.D.Soni i/b. Ram & Co. for the intervenor.

CORAM : A.M.BADAR, J.

DATED : 4TH JULY, 2016

P.C. :-

1. Heard.

2. The learned counsel for applicants argued that applicants have purchased the land in question by registered sale deed and prior to execution of the sale deed, he has published advertisement in newspaper expressing intention to purchase the land in question. According to the learned counsel for applicants, applicants are not involved in the commission of the crime, including cheating and forgery.

3. I have also heard the learned APP as well as the learned counsel appearing for the informant. They vehemently argued that the sale deed in favour of Ahuja and Dilip Variyani as well as in favour of present applicants are showing that consideration for effecting sale of land was paid by cheques. It is argued that it is a matter of common knowledge that for effecting sale of immovable property, consideration is never passes by cheque. They further argued that the main accused persons viz. Jatin Ahuja and Variyani are still absconding. It is further argued that in such situation, applicants would be in a position to disclose where their vendors are and how payments were made by cheques. Therefore, custody interrogation of present applicants is essential.

4. In reply, the learned counsel for applicants argued that Haresh Ahuja and Dilip Variyani are already granted anticipatory bail by the learned Additional Sessions Judge, Pune on 27th June, 2016. He submitted a copy of the order releasing them on anticipatory bail.

5. It is seen that on 21st September, 1989 informant

Subhash Pipada along with his brother had purchased 19 gunthas of land from Surgvey No.35 of mouze Kiwale by registered sale deed. Subsequently, by indulging in forgery, accused Jatin Ahuja got the said land transferred in his name. Subsequently, Jatin Ahuja sold that land for a consideration of Rs.80 lacs to accused Haresh Ahuja and Dilip Variyani.

6. Through Advocate Mr.Prashant Jagtap, a notice was published in the newspaper at the instance of present applicants that they intend to purchased land in question from Harish Ahuja and Dilip Variyani and all interested persons were requested to submit their objections, if any, within a period of 21 days of publication of notice. A copy of this notice is placed on record. Subsequently, by registered sale deed dated 27th February, 2015 present applicants have purchased the land in question for a consideration of Rs.95 lacs. Recital in the sale deed shows that consideration is paid by four cheques issued on several banks.

7. Prima facie, it appears that present applicants are bonafide purchasers of the land in question as the transaction was done after publication of notice inviting objections. In this

view of the matter, in my opinion, their liberty gets precedent over interest of the investigator. Even otherwise, the crime in question is based on documentary evidence. Hence the order:-

- (i) In the event of their arrest, applicants / accused in Crime No.129/2016 for the offences punishable under section 420, 464, 465, 468, 471, 120B of the Indian Penal Code with Dehu Road Police Station, Pune be released on bail on their executing P.R. bonds in the sum of Rs.25,000/- each with one or more sureties in the like amount by each of them;
- (ii) As a condition of this order, applicants / accused shall attend Dehu Road Police Station, Pune on 10th July, 2016 and 17th July, 2016 between 11.00 a.m. to 1.00 p.m. and co-operate with the Investigating Officer;
- (iii) Applicants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him / her from disclosing such facts either

to the Court or to any police officer and that they shall not tamper with the evidence;

(iv) Applicants / accused shall co-operate for expeditious disposal of the trial;

(v) Applicants / accused shall not commit an offence similar to the offence of which he is accused or suspected of commission;

(vi) The application is disposed of accordingly.

(A.M.BADAR, J.)