

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1174 OF 2016

PRABHAT S/o.VIJAY UPADHYAY)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.)...RESPONDENTS

Mr.A.M.Saraogi a/w. Mr.Sushil Upadhyay, Advocate for the Applicant.

Mrs.Rutuja Ambekar, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 15th JULY 2016.

P.C. :

1 Accused involved in Crime No.72 of 2016 registered with Nirmal Nagar Police Station, Mumbai, on 3rd March 2016, for the offences punishable under Sections 258, 259, 260, 465, 466, 467, 468, 471, 472, 474 read with 34 of the Indian Penal Code, has sought anticipatory bail.

2 Heard learned counsel for both the sides.

3 Learned counsel for applicant has invited my attention to documents filed in the application and has contended that from the earlier remand application on record, no involvement of applicant is established, and has further contended that applicant has been involved only by the co-accused and there is nothing to establish his role independently in the present crime. It is also submitted that according to the say of prosecution filed before the learned Sessions court, the stamp papers which are alleged to be involved in the present crime, involving present applicant are stated to be genuine, and as such, applicant cannot said to be involved in the present crime along with other co-accused. It is also contended that applicant since was protected by learned Sessions court earlier, however, his application for grant of anticipatory bail was rejected, application is prayed to be allowed.

 Learned APP opposed the application contending that there is sufficient material establishing involvement of applicant in the present crime and has submitted that applicant's custodial interrogation is necessary, who, from the papers of investigation, appears to be involved in the crime for sufficient long period.

4 I have perused the case diary made available by learned APP, and the documents filed with the application.

5 On perusal of FIR, no name of applicant is found mentioned therein, and names of two accused and some wanted accused only are mentioned. From this document it appears that on 3rd March 2016 at 11 am, based on information received by police, traps came to be laid at the courts at Bandra, Andheri court, Bhoiwada and Killa court in the presence of panch witnesses, as information was with reference to sale of bogus stamp papers at enhanced price at these places. At that time, as per information received at around 2.15 pm, two persons arrived out of which one was carrying sack while other person was having in his hand plastic bag, who came to be apprehended and on enquiry one of them disclosed his name as Rajbahadur Parasnath Yadav while second person disclosed his name as Yelalinga Sarnappa Manglagi alias Nilesh, who are named as accused nos.1 and 2 in the FIR. On obtaining their personal search, 200 and 20 stamp papers respectively valued for Rs.100/- each having no date

and stamp thereon came to be recovered from their possession. Apart from these stamp papers, other articles like letter heads of advocates, rubber stamps etc. came to be recovered from said co-accused as detailed in the FIR.

6 From the remand application dated 4th March 2016, it reveals that total nine accused were arrested on 3rd March 2016 and were produced for remand on the following day who were granted PC till 10th March 2016. Learned counsel for applicant has pointed out that the entire remand application is silent with reference to applicant's involvement.

7 On perusal of subsequent remand application dated 10th March 2016, it reveals that accused no.2 during the course of interrogation stated that he obtained the stamp papers recovered from his possession on 3rd March 2016 from wanted accused, who is resident of out of State and on obtaining said stamp papers, they were sold in Mumbai on higher price. According to further contents of remand application, statement of witnesses were

recorded, who had stated that said wanted accused was involved in sale of bogus stamp papers and that said accused was avoiding arrest and has also switched off his cell phone. Learned counsel for applicant referring to these contents of remand application dated 10th March 2016 has submitted that reference of wanted accused is not to the applicant and to substantiate this contention has invited attention to further remand application dated 14th March 2016. On perusal of said remand application, it is revealed that accused no.2 Yelalinga Sarnappa Manglagi alias Nilesh, during the course of interrogation had stated that he had secured bogus stamp papers from co-accused no.10, namely, Omkareshwar Dixit from Uttar Pradesh and accordingly investigating team proceeded to said State and effected arrest of co-accused Omkareshwar, from whose possession old stamp papers also came to be recovered and seized. Learned counsel for applicant has, therefore, submitted that in this investigation and remand application, no involvement of applicant is seen. It is, therefore, prayed that application be allowed.

8 Perused the police report submitted to the learned Sessions court while opposing anticipatory bail application. From its contents, applicant's involvement is found to the effect that he was in contact with wanted accused on his mobile and accused no.2 Yelalinga Sarnappa Manglagi alias Nilesch had involved applicant from whom he had purchased bogus stamp papers. Applicant's involvement is further found of his indulged in securing bogus stamp papers from out of State and selling it in Mumbai at higher price. It is also noted that accused no.10 Omkareshwar is supplying bogus stamp papers to applicant, who is resident of Uttar Pradesh, which are in turn sold by applicant in Mumbai, as aforesaid.

9 Perused case diary where from statement of witnesses it reveals that one witness was engaged by applicant on payment of Rs.12,000/- per month since 2012, during which period, applicant was sending him out of State to Uttar Pradesh and also to the house of accused no.10 Omkareshwar in Uttar Pradesh, on couple of times in a month, on visiting as above he used to collect

stamp papers provided to him by accused no.10 and in turn used to hand over the same to applicant. All the expenses for reaching to Uttar Pradesh and for return journey etc. were made by applicant. It also reveals that applicant was also indulged in providing stamp papers to one Shiv Shankar Sharma, from whom stamp papers came to be recovered.

10 Similarly, from other statements involvement of applicant is found in procuring stamp papers of various denominations from Lucknow since year 2004 and on the say of applicant, one Praful was working for applicant on payment of Rs.15,000/- per month and against that used to visit Uttar Pradesh and collect stamp papers of various denominations and made such stamp papers available to applicant and his brothers.

11 Having considering involvement of applicant as aforesaid, and since it is also the case of prosecution that applicant is involved in removing original stamp papers from various banks in Uttar Pradesh, which were genuine and after using chemical its

writings were erased. Involvement of applicant, therefore, appears to be sufficient to refuse interim protection of anticipatory bail, as report of independent search team, to whom such stamp papers were forwarded for its examination, reveals that such stamp papers are genuine, however writings thereon has been tampered with and is erased with the use of chemicals. Having considered facts as aforesaid, and since prima facie involvement of applicant is established, application is rejected.

12 Learned counsel seeks one weeks time for applicant to surrender contending that there is no question of his absconding, having permanent place of residence in Mumbai.

13 Considering the fact that applicant was initially protected from arrest by Sessions court from 29th March 2016 till 11th July 2016, when his application came to be rejected, but was further protected for a period of one week, time to surrender is granted till 22nd July 2016.

14 Applicant shall surrender on 23rd July 2016 at 10.30
a.m. before the Investigating Officer.

(P. N. DESHMUKH, J.)