

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1179 OF 2016

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|-----|-----------------------------|---|---------------|
| 1. | Shri Suresh Raman Chaudhari |) | |
| 2. | Shri Balasaheb Pandit Kudke |) | |
| 3. | Shri Pradeep Uttam Jagtap |) | |
| 4. | Shri Nandkumar Kisan Gote |) | |
| 5. | Shri Anil Baban Gote |) | |
| 6. | Shri Sachin Baburao Thorat |) | .. Applicants |
| vs. | | | |
| 1. | The State of Maharashtra |) | |
| 2. | Laxman Vishnu Marne |) | ..Respondents |

Mr. Prashant M. Patil, Advocate for the applicants.

Mr. Rajesh A. More for respondent No.2.

Ms. Veera Shinde, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 20th September, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicants herein are apprehending their arrest in Crime No.211/2016 registered with Loni-Kalbhor Police Station, District Pune, for the offences punishable under Sections 420, 467, 468, 470, 406, 120B read with Section 34 of the IPC.

2. It is the case of the prosecution that the complainant herein had filed a complaint before the Judicial Magistrate, First Class, Pune, on 13.1.2016 alleging therein that the complainant had sold 200 sq. mtrs. to the

applicants from his land Gat No.106 Hissa No.2. According to the complainant, a Sale Deed was executed on 27.6.2011 to that effect. The agreement for sale is not disputed as on today. It is the case of the complainant that on 15.7.2014, he was called by the applicants to the office of the Sub-Registrar for cancellation of the agreement to sale and execution of the sale deed for 200 sq. mts. According to the complainant, the original accused No.4 had informed the complainant that his driver Balasaheb would be purchasing 200 sq. mtrs. The complainant has further alleged that the applicants herein had taken undue advantage of his old age and had also shown that he had purchased 2 H and 2 Ares for a consideration of Rs.1 crore and odd amount.

3. The learned Magistrate by an order dated 9.3.2016, had passed directions under Section 156(3) of Cr.P.C. Pursuant to the said directions, Crime No.211 of 2016 is registered against the applicants for the offence punishable under Sections 420, 467, 468,470, 406, 120B read with Section 34 of the IPC.

4. The complainant has filed Civil Suit No.822 of 2015 in the Court of Civil Judge, Senior Division at Pune, seeking cancellation of the

Sale Deed dated 15.7.2014 on the ground that the complainant had been cheated and the said transaction is a fraudulent transaction. The said Civil Suit is pending. The application below Exhibit 5 is also pending adjudication.

5. It is pertinent to note that the sister of the complainant and other family members are defendants in the said Civil Suit. The sister of the complainant has filed written statement by which she has raised a counter-claim against the complainant.

6. The learned counsel for the applicants submits that it is a civil dispute between both the parties. It is the case of the complainant that he has not received the consideration for the sale deed dated 15.7.2014. However, it prima facie appears that the Civil Suit in respect of cancellation of the sale deed is pending adjudication and in the course of hearing of the said Civil Suit, the issue can be framed as to whether the sale deed was executed by playing fraud upon the complainant and the complainant can file necessary documents before the Civil Judge, Senior Division and he may pass directions/orders under Section 190 of Cr.P.C. Cognizance can be taken subsequently. However, as on today, the custodial interrogation of the

applicants may not be necessary.

7. The observations are prima facie in nature and shall not influenced by the Sessions Judge while considering the application for quashing, discharge application or at the time of trial.

8. The learned Civil Judge, Senior Division, Pune, shall enquire into the genuineness of the complaint of the plaintiff, if filed and only after proper verification if enquiry is expedient in the interest of justice, shall enquire into it.

ORDER

(i) The application is allowed.

(ii) In the event of their arrest, the applicants be enlarged on bail on **each** furnishing P.R. Bond in the sum of Rs.1,00,000/- (Rupees one lakh only) and one or more solvent sureties in the like amount.

(iii) The applicants shall report to the concerned police station on 24.9.2016, 1.10.2016 and 8.10.2016 and co-operate with the investigating agency.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)