

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1183 OF 2016

Mr. Sachin Mohan Choudhari and two others. ... Applicants.

V/s.

The State of Maharashtra ... Respondent.

Mr. Ranjeet Sangle, Advocate i/by Hitesh Sangle, Advocate for the Applicants.

Mrs. Veera Shinde, A.P.P. for the Respondent – State.

CORAM : A. M. BADAR, J.

DATE : 18th JULY, 2016

P.C. :

1 By this application under section 438 of the Criminal Procedure Code, applicants/accused in Crime No. 201 of 2016 for the offences punishable under sections 420, 467, 468, 120(B) r/w. Section 34 of the Indian Penal Code, registered with Bhosari Police Station, Dist. Pune at the instance of informant-Latifbhai Attar, are praying for pre-arrest bail.

2 Heard the learned counsel appearing for Applicants /accused. He argued that the entire transaction between the parties is civil in nature which is being given colour of offence by simultaneously approaching the Judicial Magistrate, First

Class, as well as the police. Learned counsel by taking me through the registered sale deed submitted that the informant is not disputing the sale deed. He pointed out summary of the registered document at page 56 on the record and submitted that the informant had sworn an affidavit to the effect that all the recitals in the sale deed as well as the annexed documents are correct. With this, according to the learned counsel for the applicants even mutation is also done in favour of the applicants and, therefore, applicants are entitled to pre-arrest bail.

3 Learned APP opposed the application by contending that there are statements of witnesses, who are stating that transaction was only for one guntha of land for enabling the applicants to have an approach road to their field. Learned APP submitted that the offence is serious and investigation is required to be done in order to ascertain complicity of the accused persons.

4 Perused the case diary including the FIR. Informant - Latifbhai Attar is the person, aged about 78 years. The FIR reveals that applicant no.1-Sachin Choudhari approached the informant with a request to sell one gunthas of land in order to have way for approaching his field. Upon his repeated requests, as stated by the informant, he agreed to sell 100 sq.ft. x 10 sq.ft. land from his field in Gat No. 759 to applicant-

Sachin Choudhary for a consideration of Rs.7 lakhs. The informant further averred that he received Rs.10 thousand by cash and balance amount of Rs. 6.90 lakhs by a cheque. According to the Informant, applicant -Sachin Choudhary then prepared the sale deed and on 29.03.2016 they proceeded to the office of the Sub-Registrar No.6, Hadappsar, Pune. On the way, Rafiq-son of the informant started reading the document. It is further averred that applicant-Sachin Choudhari stated that there is heavy rush at the office of the Sub-Registrar and their serial number is 126. They were then taken to the office of the Sub-Registrar, Haveli No. 25, Kasarwadi, Pune. Rafiq was asked to wait outside of the office and the informant was taken inside the office of the Sub-Registrar. Thereafter, after some time, the informant was asked to make signature and put his thumb impression and his photograph was taken and he was then asked to go out of the office. The informant further reported that on the way back, they were stopped at "Pranam Hotel" and the Assistant of Talathi, who was present, took necessary entry in the revenue record. The informant further contended that subsequently he came to know that on the pretext of executing sale deed of one guntha of land, his 50 gunthas of agricultural land was purchased by the present applicant by cheating him.

5 Considering this nature of the evidence and perusal of the sale deed, attending circumstances, goes to

show that consideration of Rs. 54,32,550/- is stated to be paid in cash. This is totally contrary to the relevant provisions of law. An amount of more than Rs.20,000/- cannot be paid in cash. Recitals in the sale deed go to show that an amount of Rs. 54, 32,550/- is paid in cash. No documentary evidence can be pointed out to substantiate this averments in the sale deed, showing that this huge amount of consideration was paid in cash by the applicant to the informant. Therefore, prima facie, it appears that the informant was cheated on the pretext on getting execution of sale deed of one guntha of land and his 50 gunthas of land came to be transferred in favour of the applicant.

6 Custodial interrogation of the applicants is essential, as huge amount is involved in this case of cheating. That apart complicity of the concerned Talathi will have to be examined by custodial interrogation of the applicants. No case for anticipatory bail is made out.

7 The bail application is rejected.

(A. M. BADAR, J.)

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