IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1372 OF 2016

Mr. Paresh Baliram Kolambe .....Applicant

V/s.

The State of Maharashtra ....Respondent

Ms. Pranali Kakade Advocate for Applicant.

Ms. Veera Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : SEPTEMBER 19, 2016.

PC :

1) Heard. This is an application under section 438 of the Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 20 of 2016 registered at Neral police station for offence punishable under sections 420, 467, 468, 471 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that on 24/01/2016, Rajesh Desai lodged a report at the police station alleging therein that he had purchased 282 sqare meters of land from survey no. 50, plot no. 26 situated at Mauje Bopele, Taluka : Karjat. That he desired to sell the land and therefore had called for

the revenue record. It was revealed that the land was sold to one Asha wife of Kishor Ghosalkar. He was fully aware that he had not sold the land to anybody and therefore, he had realized that there was impersonation and the land was sold.

3) In the course of investigation, it was revealed that the present applicant had received the amount of Rs. 3,80,000/- from the account of one Mahendrakumar Bhatia. The said account was a fake account opened by one Rakesh Mishra. Applicant was fully aware that there was no person called Mahendrakumar Bhatia and was also aware that the amount is in fact being transferred by Rakesh Kumar Mishra.

4) Papers of investigation would reveal that on 01/04/2015, Mrs Asha Ghosalkar had given a written report to Police Inspector of Neral Police Station that she had purchased the land through one Ramdas Ghate (Original accused no. 6 in the present case). That she had full faith in Ramdas Ghate and therefore, she had entered into transaction by a registered sale deed. She had also paid the amount of Rs. 11,05,500/- in favour of one Rajesh Desai i.e. present complainant.

5) The learned APP at this stage submits that the person who had

impersonated as Rajesh Desai is in fact one Mr. R. R. Deshpande.

6) The complainant, upon enquiry had learnt that Mr. Rajesh Desai is not residing on the address which was given to her. Her husband had made enquiry about the same. On 16/02/2015, Mr. R. R. Deshpande had also given her an affidavit that he had fabricated the documents in the name of Rajesh Desai i.e. bogus pan card, identity card, ration card etc. On 31/03/2015, she had also informed that the fake account in the name of Rajesh Desai be seized. She had also learnt that the amount which was deposited by her was withdrawn by Ravindra R. Deshpande. It appears that no action was taken by the police on the basis of her application. It was subsequently revealed that Ramdas Ghate appears to be associate of the present applicant.

7) Perused the affidavit given by Ravindra Deshpande on 16/02/2006 wherein he has admitted that he has impersonated as Rajesh Desai and had purchased the said land. He had also stated that his associates are Ramdas Ghate and one Paresh. That applicant herein appears to be the beneficiary of the said racket since he had received an amount of Rs. 3,80,000/- towards his share from a fake account of Mahendra Bhatia and the said account was opened by Rakesh Mishra. The bank statement which was purportedly drawn

in the name of Rajesh Desai shows that way back on 02/12/2014, Rajesh Desai received an amount of Rs. 11,05,500/-. The amount was purportedly withdrawn by Rajesh Desai and amount of Rs. 5,57,000/- was transferred in the name of Mahendrakumar Bhatia. Amount had flown from the account of Mr. Bhatia to Mr. Rakesh Mishra.

8) The learned APP submits that in fact, applicant is a conspirator with Rakesh Mishra as well as Ramdas Ghate. He had also received an amount from the amount which was received through Asha Ghosalkar.

9) The learned counsel for the applicant submits that as on today, there is no evidence on record to show that present applicant is involved in the said racket. According to the learned counsel, the applicant was intending to sell the land to Rakeshkumar Mishra and he had received the said amount by way of the said transaction and subsequently the amount has been returned. There is no evidence of returning of the amount.

10) It is clear that applicant was fully aware that Mahendrakumar Bhatia is not in existence and not liable to pay the applicant and yet received the amount knowing it fully well that the account was fake account created by Rakeshkumar Bhatia. Investigation is in progress and hence, applicant does

not deserve to be granted the discretionary relief in the form of pre-arrest bail.

11) Hence, application being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)