

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1481 OF 2016

Dilip Bhausahab Satpute. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Sachin Dhakephalkar, advocate for Applicant.

Mr. Vinod Chate, APP for State.

Mr. Subhash B. Patil, PSI, Igatpuri Police Station, Nashik (Gramin).

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : SEPTEMBER 23, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 124 of 2016 registered at Igatpuri Police Station on 30/6/2016 for the

offence punishable under section 420, 467, 419, 465, 468, 471 and 120B read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 30/6/2016 the complainant Devendra Cheda lodged report at the police station alleging therein that he owns a piece of land at Igatpuri Mauje Talegaon Budruk Gat No. 423 admeasuring 1882 sq.mt. It is a non-agricultural plot. Due to busy schedule, he could not visit the plot quite often. On 10/10/2015 he had been to the plot and at that time, he had learnt that the plot has been transferred in the name of Suresh Prabhudayal Gupta. He enquired with the office of the Talathi and had taken extracts of 7/12 records. He had noticed that name of the possessor was shown as Prabhudayal Gupta and Anita Suresh Gupta. He has also checked the mutation entry and seen that the possession was also given. He had checked the record and had found that some person called Akhtar Ahmed Shaikh had impersonated him and had sold the said land on 12/7/2013. The mutation entry was taken on 6/9/2013 after Ahmed sold the said land in favour of the present applicant. Mutation entry No. 3689 was recorded in favour of the present applicant and on 17/12/2013 the said plot was sold to Suresh Gupta and Anita Gupta. He has further stated

in the FIR itself that someone had fabricated false identity cards in his name and had sold the land in favour of Akhtar Shaikh and that in turn, sold to the applicant.

4 The learned Counsel for the applicant submits that he had given a paper publication before purchasing the said land and since no objections were received he has purchased the said land from Akhtar Ahmed Shaikh and therefore, he is not aware of the earlier transaction and therefore, he deserves to be granted pre-arrest bail.

5 Perused the papers. The applicant had purchased the said land from Akhtar Ahmed Shaikh for a consideration of Rs. 20 Lakhs. It is stated in the sale deed that the applicant had given a demand draft in favour of Akhtar Ahmed Shaikh dated 25/9/2013 and the land was sold in favour of the Guptas.

6 Learned Counsel for the applicant had submitted initially that the applicant had given cheques in favour of the vendor and since he did not

have sufficient funds for the cheques to be honoured, he had sold the said land by registered sale deed to Mr. Gupta. The said contention cannot be accepted even on the face value, for the simple reason that the sale deed itself indicates that the consideration was paid by way of demand draft. It appears that the applicant had conspired with Akhatar Ahmed Shaikh to purchase the said land and the ultimate beneficiary was the present applicant, who was the seller of the said land to Gupta for consideration of Rs. 25 Lakhs. In this way, it is clear that the documents are fabricated by impersonating the original complainant. The applicant has not only cheated the original owner of the said plot, but has cheated Mr. Gupta also. There is fabrication of official documents. Hence, the applicant does not deserve to be protected by way of pre-arrest bail. The custodial interrogation of the applicant would be imperative. Hence, the application being sans merits stands rejected.

7 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Judge shall not be influenced by the same at the time of

hearing application under section 439 of the Code of Criminal Procedure, 1973.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)