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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1491 OF 2016

Ashok Raman Dhodi ..Applicant.
Vs
The State of Maharashtra. ..Respondent.

Mr D.V. Godbole, for the applicant.
Smt. J.S. Lohokare, APP for the Respondent-State.

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CORAM : A.S.GADKARI, J.
DATE : 2nd September, 2016

P.C.

- 1) The applicant is apprehending arrest in CR No.I-04/2016 dated 22/3/2016 registered with Gholwad Police Station, District Palghar for the offences under sections 419, 420, 465, 471 read with section 34 of the Indian Penal Code.
- 2) Heard the learned counsel for the applicant at length and also perused the record pertaining to the investigation of the present crime.
- 3) The first information report is lodged by Chandreshkumar Mansukhbhai Mehta. It is stated in the report that the father of the first informant, namely Mansukhbhai Ramchandra Mehta was owner having

substantial holding of land at village Vevadi, Taluka Talasari, District Palghar. That his father expired on 4/10/2000. It is further stated that on 17/2/2016 the first informant with a view to bring on record the heirs of the deceased, took out a copy of 7/12 extract of the land bearing Survey No. 197/1 admeasuring 26 ares from the revenue office, when it was noticed that the names of Govind Yevle and Kavita Yevle are recorded on the said extract. He therefore took inspection of the mutation entries when it was realized that it is mentioned in the revenue record that Mansukhbhai Mehta had sold the said land in favour of one Amit Amin Vasaya by executing a sale deed and the said Amit/Amin Vasaya in turn by executing a sale deed dated 25/11/2005 has further sold the said land to the said Govind Yevle and Smt. Kavita Yevle. He further noticed that though his father expired on 4/10/2000, on the said sale deed a photograph of some other person was pasted and also in support of evidence, a copy of a bogus PAN card and ration card was also annexed. That there were two persons who had attested the signature of his

father on the said sale deed. In the premise, the first information report is lodged.

The record discloses that as of today there are in all five accused persons in the present crime, namely Ganesh Dhodi (accused no.1), Chetan Dubala (accused no.2), Hedwin Francis (accused no.3), Amit/Amin Vasaya (accused no.4) and the applicant (accused no.5). That after completion of the investigation the police have filed charge-sheet by showing the applicant as an absconding accused.

4) The papers pertaining to the investigation of the present crime reveals that at the instance of the applicant, Hedwin Francis (accused no.3) impersonated himself as the landlord i.e. Mr Mansukhbhai Mehta and the initial document of a sale deed was executed in favour of Amit/Amin Vasaya (accused no.4). It is to be noted here that as per the record of the present case, the accused no.4 Amit/Amin Vasaya is alleged to be the driver of the present applicant. That Ganesh Dhodi (accused No.1) and Chetan Dubala (accused no.2) are the attesting witnesses to the

said sale deed executed between the parties interse. It is the prosecution case that at the instance of the applicant, the accused no.4 Amit Amin Vasaya subsequently sold the said land to Govind Yevle and Kavita Yevle. The statement of Govind Yevle reveals that the broker in the deal introduced the accused no.4 Amit Amin Vasaya and the present applicant as the owners of the said land. That the applicant herein has accepted the consideration of Rs.1,80,000/- from Govind Yevle.

5) It is the specific accusation of the investigating agency as against the applicant that the applicant prepared and/or manufactured a forged and fabricated PAN card in the name of Mr Mansukhbhai Mehta by pasting the photograph of co-accused Hedwin Francis (accused no.3) and at the instance of the applicant said Hedwin Francis appeared before the registering authority, impersonating himself as the original landlord, Shri Mansukhbhai Mahta. The papers pertaining to the investigation of the present crime further reveals that it is the applicant herein who is the main perpetrator of the entire crime and under his

directions the other co-accused have acted in concert with each other. The evidence collected by the Investigating Officer during the course of the investigation in unequivocal terms and undoubtedly point the finger towards the applicant, as the main perpetrator and principal accused in the present crime. The allegations levelled against the applicant are very serious in nature. He is alleged to have not only manufactured or fabricated a bogus PAN card (i.e. the Government document) but has subsequently presented the same before the competent authority for registering the sale deed. It is submitted by the learned APP that the applicant is absconding since the date of registration of offence.

6) The learned counsel for the applicant submitted that the investigation pertaining to the present crime is completed and charge-sheet has already been filed. He submitted that the allegations made against the applicant has no basis in it. That the other accused persons have been arrested and the custodial interrogation of the applicant is not necessary. The learned counsel for the applicant

further submitted that in view of the guidelines enumerated by the Supreme Court in paragraph 122, in the case of *Siddharam Satlingappa Mhetre v. State of Maharashtra* reported in AIR 2011 SC 312 the applicant “must” be granted pre-arrest bail.

7) There cannot be any dispute or quarrel with regard to the guidelines and/or parameters laid down by the Hon'ble Supreme Court in the case of *Siddharam Mhetre* (supra). However, at this stage, it is necessary to make a reference to the Constitution Bench decision of the Supreme Court in the case of *Gurbaksh Singh Sibbia v. State of Punjab* reported in (1980) 2 Supreme Court Cases 565. In the said decision the Constitution Bench of the Supreme Court has held that the Judges have to decide cases as they come before them, mindful of the need to keep passions and prejudices out of their decisions. No two cases are alike on facts and therefore, Courts have to be allowed a little free play in the joints if the conferment of discretionary power is to be meaningful. It is further held that the nature and seriousness of the proposed charges,

the context of the events likely to lead to the making of the charges, a reasonable apprehension that witnesses will be tampered with and “the larger interests of the public or the State” are some of the considerations which the court has to keep in mind while deciding an application for anticipatory bail.

8) As stated earlier, the allegations of manufacturing and/or preparing bogus PAN card in the name of deceased Mansukhbhai Mehta by pasting a photograph of accused no.3 Hedwin Francis on it and presenting the same before the Registering authority for execution of a sale deed is undoubtedly a very serious offence for which thorough custodial interrogation of the applicant is necessary. It is to be noted here that though the charge-sheet in the present crime is filed by the Investigating agency, against other accused persons the further investigation qua the present applicant is being carried out by the investigating agency. It is necessary for the investigating agency to unearth the entire truth behind the crime including the fact whether there are any other persons in the present crime who have

assisted the applicant in manufacturing and/or fabricating the said valuable Government document, namely the PAN card which is being issued by the Income-tax Department.

9) The custodial interrogation of the applicant is undoubtedly necessary for carrying out thorough and proper investigation in the present crime. The charge-sheet is filed as against the other co-accused and not against the present applicant. After taking into consideration the entire material available on record, the serious allegations against the applicant and the gravity of the offence, the custodial interrogation of the applicant is imperative and without which further investigation cannot proceed and therefore I find no merits in the application and the application is accordingly dismissed.

(A.S.GADKARI, J.)