

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1521 OF 2016

Shri Vinayak Kundalik Mane	...	Applicant
vs.		
The State of Maharashtra	..	Respondents

Mr. Shivaji A. Masal, Advocate for the applicant.
Mr. Vinod Chate, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 21st September, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.297/2016 registered at Dattawadi Police Station, Pune, for the offences punishable under Sections 384, 506(1) of IPC.

2. It is the case of the prosecution that the complainant Pralhad Pasalkar lodged a first information report at the police station alleging therein that the complainant happens to be a project affected person. In the year 1986, the Government allotted land in favour of father of the complainant from Survey No.173/1/B (New Survey No.1802-B) admeasuring 3 acres. That in the year 1991, on seeking permission from

the Collector as contemplated under the provisions, had sold the land in favour of Premsukh Katariya etc. It was a registered sale deed. In 2008, he had sold the land in favour of Divakar Lund who is in possession of the said land at present. The applicant had filed an application to the Collector, Pune alleging therein that the father of the complainant had played a fraud upon the Government and had taken the said land as a project affected person. That one day, the applicant had allegedly called upon the complainant and had entered into a dialogue with him and had demanded Rs.1 lakh as he had given a complaint to the Collector. The complainant had informed him that he would not be able to pay the amount of Rs.1 lakh. On 26.6.2016, when the complainant was in the company of his friend Aniket Kadam, the applicant had approached him. That he had asked the complainant as to whether he had been to the office of the Collector for the purpose of enquiry. he had once again demanded Rs.1 lakh for withdrawing the complaint filed before the Collector. It is the case of the complainant that he had not received any notice from the Collector in respect of the complaint filed by the applicant.

3. The learned counsel for the applicant submits that the applicant happens to be a Right to Information Activist and has brought many scams

to light. That in respect of allotment of the said land in favour of the complainant, he had filed an application under the provisions of the RTI Act and had received the information. It appears that RTI Act would show that on 19.6.2016, Maruti Malhar Shende filed an application to the Talathi in respect of the allotment of land in favour of father of the complainant. It is mentioned that Santosh who is purchaser of the said land has filed a petition in the Hon'ble High Court. That he had asked for cancellation of the sale deed in respect of old Survey No.173/1/B. The Tahsildar had filed an affidavit in reply in Writ Petition No.5275 of 2005 wherein it is specifically contended that the complainant was allowed to sell the land as per the order dated 12.9.1989 on the condition that he would deposit 50% of the price. The complainant has not deposited the full amount of 50 paise and therefore, he had breached the condition. It is also stated in the affidavit that the excessive land was allotted in favour of Mr. Pasalkar vide letter dated 30.6.2004. The District Re-Settlement Officer had already decided the application the excessive land of 3 acres allotted in favour of the complainant. The action has been taken against the complainant under the Maharashtra Land Revenue Code for having breached the condition and directed the authorities to initiate appropriation action's against him. Certain suits were filed against the complainant which were dismissed.

There was a dispute between the Government and the complainant.

4. The learned counsel for the applicant has drawn attention of this Court to the Mutation Entry dated 27.4.2005 which would show that the complainant had received some excessive land. It appears that the applicant has filed an application to the Collector only on the basis of the said Mutation Entry. That the revenue Authorities have already taken action against the complainant and therefore, there was no reason for the present applicant to file any complaint to the Collector. In any case, it appears that on the basis of the complaint filed to the Collector, the applicant has attempted to extract money from the complainant.

5. The learned APP at this stage submits that there are similar allegations against the applicant and earlier there was a case registered against the applicant for similar offences in which he has been acquitted. A person may be acquitted for want of sufficient, cogent and convincing evidence. The same cannot be taken into consideration for the purpose of deciding bail application.. As on today, it prima facie appears that the application is indulging into offences of extortion of money on the basis of the fact that he happens to be a RTI activist. It is in these circumstances

that the applicant does not deserve to be granted discretionary relief under Section 438 of Cr.P.C. Denial of an order under Section 438 of Cr.P.C. would in all probability act as deterrent to the applicant not to indulge in the same offences or harass the people on ground of filing RTI applications. Hence, the application being sans merits, deserves to be rejected.

6. However, it is made clear that the observations are restricted to an application under Section 438 of Cr.P.C. only and shall not be considered in the eventuality that the applicant appears before the Learned Magistrate under Section 437 of Cr.P.C. or files an application under Section 439 of Cr.P.C.

7. The application stands dismissed.

(SMT.SADHANA S.JADHAV, J.)