IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1684 OF 2015
WITH
INTERVENTION APPLICTION NO.217 OF 2016

Rohit Permchand Shah ... Applicant
vs.
The State of Maharashtra ... Respondent

Mr. N.D. Deboo i/b. M/s. Rajesh Kothari & Co., for Applicant.
Ms. S.D. Shinde, APP for Respondent – State.
Mr. Rajendra Sorankar, Advocate for the Intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **29th MARCH, 2016**

P.C.:

. The application is moved for pre arrest bail as the applicant/accused is facing charges for the offences punishable under Sections 465, 467, 468 and 471 read with 34 of the Indian Penal Code in M.C.R. No. 2 of 2005 registered with Matunga police station, Mumbai. The offence is registered at the instance of one Pravin Shah on 13th September, 2005.

2. The applicant/accused and the co-accused are the citizens of England and staying at London. However, the offence has taken

place at Matunga, Mumbai. The offence is registered in the year 2005. Pursuant to the Writ Petition No. 3376 of 2010 filed before this Court by the original complainant, on the ground of misappropriation handling of the investigation by the investigating officer of Matunga police station, the Division Bench of this Court has directed the investigating agency that as per the order passed by the Metropolitan Magistrate Court, Kurla the investigation is to be taken to its logical end and the State-CID to investigate the matter. Therefore a private complaint bearing CC.No. 5100450/PW/2008 was lodged. Then by order dated 8th April, 2011 the Division Bench directed the investigating officer to conclude the investigation expeditiously and submit final report. However, it appears that as the applicant/accused was not available and therefore charge-sheet is not yet filed, but the investigation is almost complete.

3. It is the case of complainant that he owned industrial gala/shop bearing No. B/46 and B/47, Shankar Tekdi Udyog Nagar, Jamnagar, Gujrat and also some agricultural land. He has issued special power of attorney in favour of one Pravin Shah i.e. co-accused who is residing in England. However, co-accused Pravin Shah has

forged the said special power of attorney and converted it into general power of attorney by taking advantage and sold the agricultural land to his sister-in-law Bindu Shah. The applicant/ accused Rohit Shah is the brother of Pravin Shah. As per the case of the prosecution that in the year 1998 the applicant/accused has visited Jamnagar, Gujrat and has inquired about the agricultural land and executed agreement of sale in the name of applicant/accused and his brothers. It is the case of the prosecution that the applicant/accused is the beneficiary of the said forged transaction.

4. The learned counsel for the applicant/accused has submitted that the offence is registered in the year 2005. The applicant/accused has not played any role in this offence. He is innocent. He is falsely implicated in this case. He submitted that if the applicant/accused is granted pre arrest bail, he shall abide by the terms and conditions imposed by this Court.

5. The learned prosecutor and the learned counsel for the complainant oppose the application. The son of the complainant has filed the intervention application as the complainant expired in the

year 2011. The learned counsel for the complainant relied on the statement of one Nigam Rameshbhai Patel who is the resident of Jamnagar and who has stated that applicant/accused had visited Jamnagar and tried to sale the property. It is submitted by the learned counsel for the intervener that the applicant/accused was active in selling the property of the complainant though the complainant has not given any power of attorney to sale the property. The learned prosecutor has submitted that almost the investigation is complete and the report of the handwriting expert is received.

6. Perused the first information report, statement of the witnesses and other documents. It is not clear whether the applicant/accused himself has forged the power of attorney or not. This is the offence of forgery of the year 2005. On query, it is submitted that the applicant/accused has not forged the power of attorney. Under such circumstances, I am of the view that the custodial interrogation of the applicant/accused is not required. Hence, I grant pre arrest bail to the applicant on the following terms and conditions:

a) The anticipatory bail application is allowed.

b) In the event of arrest, the applicant/accused be enlarged on bail upon furnishing P. R. Bond in the sum of Rs. 30,000/- with one or two solvent sureties in the like amount;

c) The applicant shall not tamper with the evidence;

d) The learned counsel for the applicant/accused upon telephonic instruction from the accused informs that the applicant/accused is going to visit India between 22nd to 24th April, 2016. Therefore, the applicant/accused shall attend State-CID office twice i.e. on 26th and 27th April, 2016 between 11.00 am to 2.00 pm and cooperate with the Investigating Officer.

7. Accordingly the anticipatory bail application as well as intervention application stand disposed of.

(MRS.MRIDULA BHATKAR, J.)