

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2290 OF 2016

Ajit Birhan Katariya	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.A.P.Mundargi, Senior Counsel, i/b. Mr. Pratap Patil, Advocate for the applicant.

Ms.Veera Shinde, APP, for the State.

Mr. Sardar Patil, PI, EOW, Pune, present.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 6th December, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 1.7.2016 in Crime No.71 of 2015 registered at Marketyard Police Station, Pune for the offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code. The investigation is completed and charge-sheet is filed.

2. It is the case of prosecution that one Karamjit Kaur, the original resident of Jabalpur, lodged a report at the police station alleging therein that on 19.4.1989, she had purchased a plot in Survey No.12 Hissa

No.4/23 admeasuring 4000 sq. ft. in Dhanori Grampanchayat from one Shankar Maruti Tapkir. She had purchased the land for a consideration of Rs.40,000/-. That she had not occupied the said land nor had undertaken any construction on the said plot. That on 6.8.2010, she had made an attempt to obtain original 7 x 12 extract of the said plot. On 13.4.2015, she had received the 7 x 12 extract which showed that the said plot purchased by her was sold. She had noticed that the said plot was sold to one Shrenik Khabiya. She was sure that she had not entered into any transaction with Shrenik and, therefore, it was clear that somebody had sold the land by proxy to Shrenik Khabiya for a consideration of Rs.1,60,00,000/-. She lodged a report on the basis of Crime No.71 of 2015 was registered against the unknown persons and Shrenik Khabiya.

3. Perused the papers of investigation. It appears that on 21.1.2016, the applicant was summoned by the police. His statement was recorded. he had explained to the investigating officer that he had also purchased some plots in the same survey number. One fine day she realized that Pride Builder had started construction and encroached upon the plots of others and therefore he had made attempts to contact all the purchasers in the said plot. He could not contact the complainant Karamjit Kaur. He has

disclosed to the police that he had gone to the office of the Registrar and on his request he had obtained the original sale deed in favor of Karamjit Kaur from one Mr. More. He had realized that in fact he had asked for a photocopy to Mr. More and had given him original copy of the sale deed. In the meanwhile, Mr. More has expired and therefore he could not contact Mr. More. He has further stated that he is a business associate of Mr. Pradip Devtale who was insisting upon him to give original copy of the sale deed between the complainant and original vendor. Mr. Devtale had also offered him Rs.20 lakhs by a cheque. Devtale had further informed him that in the eventuality he did not receive the original sale deed, the cheque would be dishonoured. He had retained the original sale deed as well as the cheque issued by Pradip Devtale. On 22.1.2016, there was a panchnama by which sale deed and the cheque were handed over to the police. There was no apprehension of arrest at that time. Subsequently, on 1.7.2016, the applicant was taken into custody.

4. Upon perusal of the application and the charge-sheet, it appears that the principal allegation against the present applicant is that he had obtained the copy of the sale deed from Mr. More and had retained the same for 3 years. It is a matter of record that he had not misused the said

sale deed nor had benefited from it in any way. It appears that it was Shri Devtale who had planned the whole plot of cheating the original complainant. Upon considering the papers of investigation and the role attributed to the present applicant, this Court is of the opinion that the present applicant deserves to be enlarged on bail. Moreover, the learned APP has fairly submitted that the applicant has no criminal antecedents. The investigation is completed and charge sheet is filed. In view of this, the application deserves to be allowed.

5, The above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed/
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.1,00,000/- (Rupees one lakh) with one or more solvent sureties in the like amount.

(iii) The applicant shall report to concerned police station on first Sunday of each month till framing of charge.

The application stands disposed of.

(SMT. SADHANA S.JADHAV, J.)