IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1773 OF 2015
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1774 OF 2015
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1775 OF 2015
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1776 OF 2015
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CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1777 OF 2015
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CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1778 OF 2015
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CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1779 OF 2015
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1780 OF 2015
WITH
CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1781 OF 2015

Prakash Manohar Patil ..Applicant
V/s.
The State of Maharashtra .. Respondent

Mr.Aniket Nikam for the applicant.
Mrs.Veera Shinde, APP for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.,

DATE : 17th MARCH, 2016.

P.C.

1. Heard learned counsel for the applicant and learned APP for Respondent-State.

2. By this application, the applicant seeks pre-arrest

bail in connection with the CR Nos.37/2011, 40/2011, 41/2011, 42/2011, 43/2011, 44/2011, 45/2011, 46/2011 and 47/2011 which was initially registered with Swargate Police Station, Pune, and was thereafter, transferred to the CID, EOW, Pune. Since the facts are more or less similar a common order is being passed in all the aforesaid applications.

3. According to the prosecution, during the course of investigation it was revealed that accused Sanjay Jain(Advocate) and others had committed the aforesaid offences by preparing forged and bogus ULC Orders. It was also revealed that applicant was one of the directors of "Utakarsh Shelters and Estates Pvt. Ltd" and that the applicant had executed various development agreements with different land owners, in his capacity as the Director and power of attorney holder of 'Uttkarash Shelter and Estate Pvt. Ltd'. It was also revealed in the investigation, that the applicant and co-accused Suresh Borole had committed several financial irregularities and diverted the amounts of "Tapi Sahakari Pat Pedhi", Jalgaon in 'Uttkarsh Shelter and Estate Pvt. Ltd'.

According to the prosecution, the applicant was the standing director of the 'Utakarsh Shelters and Estates Pvt. Ltd' and during his tenure from the period of 2004 to 2008, as a director, he had entered into various development agreements in his capacity as the director and power of attorney holder of 'Utakarsh Shelters and Estates Pvt. Ltd'. It was revealed during investigation, that the persons involved in the crime were Sanjay Shinde, Sujay Chopde and Atul Panse and Sanjay Jain(Co-accused). According to the prosecution, Sanjay Jain who was an Advocate by profession, was the commission agent who had got the land deals executed, between the applicant for on behalf of the 'Utkarsha Shelter and Estates Pvt. Ltd' and the original land owners. According to the prosecution, co-accused Sanjay Jain had assured to help the applicant, in return of commission received from the applicant, to get him the required ULC orders, for the land. It is further alleged by the prosecution, that this was done by the applicant, at the instance of Suresh Borole, who is the prime accused and prime beneficiary of the said transactions. It is further alleged that the bank statements which were collected, show that an amount of Rs.9,49,000/- was transferred to the account of co-accused Sanjay Jain by the applicant from the account of 'Utkarsha Shelter and Estates Pvt. Ltd.'

4. Learned counsel for the applicant submits that the applicant, although a director of 'Utkarsha Shelter and Estates Pvt. Ltd.' was not concerned/involved with the fake ULC orders, which even according to the prosecution, were prepared by co-accused Sanjay Jain. He submitted that in fact, initially, the applicant was shown as a witness or suspect in the chargesheets filed in the aforesaid nine CR's. He further submitted that co-accused Sanjay Jain who is alleged to have procured false and bogus ULC orders, and who has submitted 12 certified copies of the said ULC orders, to the Swargate Police Station, has been granted pre-arrest bail. He submitted that the said orders granting anticipatory bail to Sanjay Jain were challenged by the State CID, however, all the applications seeking cancellation of Sanjay Jain's anticipatory bail came to be dismissed by this Court. He further submitted that similarly, Suresh Borole who is alleged to be the prime accused,

according to the prosecution, has also been granted pre-arrest bail and similarly, the application preferred by the State CID, seeking cancellation of Suresh Borole's bail has also been dismissed by this Court. He submits that none of these orders dismissing the application seeking cancellation of the anticipatory bail granted to Sanjay Jain and Suresh Borole, have been challenged in the Apex Court. He submitted that in all the aforesaid nine CR's, chargesheets were filed sometime in 2012. He submitted that infact, the anticipatory bail application filed by the applicant earlier was withdrawn by him as the applicant was shown as a witness in some of the cases or as a suspect or neither an accused nor a suspect and therefore the Court observed that there was no apprehension of arrest at that time. He submits that the investigation is complete and that all documents are in custody of the police and as such the custody of the applicant is not required.

5. Learned APP opposed the bail applications. She submitted that the original ULC orders are yet to be recovered. She further submitted that there are statements to show, that it

was the applicant who entered into a development agreement with the respective land owner, on the basis of the power of attorney given by the 'Uttkarsh Shelter and Estate Pvt. Ltd.' to the applicant. She submits that therefore, the custody of the applicant is required. She does not dispute the fact, that co-accused Suresh Borole, who according to the prosecution, is the prime accused and that co-accused Sanjay Jain, who is alleged to have prepared the forged and fabricated ULC orders have been granted pre-arrest bail in all the aforesaid CR's; and that the application seeking cancellation of their anticipatory bail, has been rejected by this Court. She also does not dispute the fact, that the said orders rejecting the applications preferred by CID, EOW have not been challenged before the Apex Court.

6. Perused the papers. It appears that initially the applicant was shown as a witness or as a suspect or neither as an accused nor a suspect, in the aforesaid nine CR's. The allegations against the applicant is that he as a director of 'Uttkarsh Shelter and Estate Pvt. Ltd' was given a power of attorney by the said company, pursuant to which, he entered

into development agreements with various land owners. It also appears, that as a director of the said 'Uttkarsh Shelter and Estate Pvt. Ltd.', the applicant had paid an amount of Rs.9,49,000/- by cheque to co-accused, Sanjay Jain, on behalf of 'Utkarsha Shelter and Estates Pvt. Ltd.' The chargesheets in almost all the aforesaid CR's were filed some time in 2012, except in CR No.37/2011, it was filed in February 2013. It is not in dispute, that Suresh Borole who is alleged to be the prime accused and co-accused Sanjay, who is alleged to have forged and fabricated ULC orders have been granted anticipatory bail. It is also not in dispute, that the said the orders granting anticipatory bail were challenged by the CID, however, the said applications were rejected by this Court and that the said orders have not been challenged thereafter. Prima-facie, considering the facts of this case, the applicant stands on a better footing, than the co-accused who have been granted anticipatory bail. Chargesheets in the aforesaid CR's were filed in 2012-2013 in which, the applicant was shown either as a witness or as a suspect or neither as an accused nor suspect. The applicant's custody is not required. Accordingly, the applicant is granted anticipatory bail on the following terms and conditions:-

ORDER

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

(ii) The applicant shall attend the office of the State CID, EOW, Pune on every Monday and Thursday between 10.00 a.m. to 12.00 a.m. for a period of two months from today and thereafter as an when called.

(iii) The applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any other persons concerned with the case.

(iv) The applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the Investigating Officer of the concerned Police Station;

(v) The applicant shall co-operate in the conduct of the trial.

7. Applications are allowed and are accordingly

disposed of.

8. Parties to act on an authenticated copy of this order.

(REVATI MOHITE DERE, J.,)