

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Civil Application [APPLN] No.28 of 2015

(Ghanshyam Jivanlal Khapurja vs. Subhash Laxmanrao Dharpure and another)

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Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

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Court's or Judge's Orders

Shri S.G. Karmarkar, Advocate for the Applicant.
Shri R.M. Mardikar, Advocate for the Non-Applicant No.1.
Ms. N.P. Mehta, A.P.P. for the Non-Applicant No.2.

CORAM : Z.A. HAQ, J.

DATE : 29th FEBRUARY, 2016.

Heard Shri S.G. Karmarkar, learned Advocate for the applicant, Shri R.M. Mardikar, learned Advocate for the non-applicant No.1 and Ms. N.P. Mehta, learned A.P.P. for the non-applicant No.2.

The applicant has filed this application under Section 439(2) of the Code of Criminal Procedure praying that the order passed by the learned Additional Sessions Judge on 27/02/2015 granting pre-arrest bail to the non-applicant No.1 be set aside and the pre-arrest bail granted to the non-applicant No.1 be cancelled.

On complaint of the applicant, Crime No.47/2015 came to be registered against the non-applicant No.1 for the offences punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code. The applicant (complainant)` alleged that the non-applicant No.1, who is

working as Secretary of Gram Panchayat and is a public servant, has issued a bogus tax receipt showing that Rashmi alias Deepali Gaikwad is owner of the property and relying on the tax receipt issued by the non-applicant No.1, believing it to be genuine having been issued by the competent authority and a public servant, the applicant has parted substantial amount for purchasing the property. The applicant alleged that Rashmi alias Deepali and the non-applicant No.1 have cheated the applicant by forging documents.

The non-applicant No.1 filed an application before the Sessions Court seeking pre-arrest bail, which is allowed by the learned Additional Sessions Judge by order dated 27/02/2015. The applicant, being aggrieved by the order passed by the learned Additional Sessions Judge, has filed this application.

The learned Advocate for the applicant has pointed out the documents filed on record of the application and has submitted that the non-applicant No.1 has created false documents to facilitate Rashmi alias Deepali to pose herself as owner of the property and because of the forged documents, the applicant has been cheated and he has paid substantial amount.

I have examined the order passed by the learned Additional Sessions Judge and the documents placed on record of this application. The learned Additional Sessions Judge has

considered all the documents and has recorded that the non-applicant No.1 had issued public notice inviting objections before issuing the tax receipt. The learned Additional Sessions Judge has recorded that the non-applicant No.1 followed the procedure before issuing the tax receipt. It is further recorded that the non-applicant No.1 has not received any monetary benefits. It is further recorded that the civil suit has been filed in the matter and it is pending and the documents are public documents and copies of the documents are available to the prosecution at any time and nothing is to be recovered from the non-applicant No.1.

In view of the above considerations, the learned Additional Sessions Judge granted pre-arrest bail to the non-applicant No.1. I do not see any reason to interfere in the matter.

The applicant has not made any complaint that the non-applicant No.1 has misused the liberty.

In view of the above, the application is dismissed. In the circumstances, the parties to bear their own costs.

JUDGE

**sdw*