

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

CRIMINAL APPLICATION (ABA) NO. 305 OF 2016

(Manoj Purushottam Borkar Vs. The State of Maharashtra)

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

Court's or Judge's orders

Shri M. R. Gokhale, Advocate for the applicant.
Shri H. D. Dubey, A.P.P. for the State.

CORAM : S. B. SHUKRE, J.

DATED : SEPTEMBER 7, 2016

Heard learned Counsel for the applicant and the learned A.P.P. for the State. Perused the first information report, case-diary and the reply of the prosecution.

The allegation made against the applicant and others is that there was common intention in making false representations knowing to be false to the complainant and her husband that a property belonging to one Fakira Padgilwar was to be sold by that person and by putting up another man, a dummy, posing himself as Fakira Padgilwar and also by showing some false documents, made the complainant and her husband to believe that the representation so made to them was genuine and in this way this applicant and others cheated the complainant and her husband of the amount of Rs.5,20,000/-. On the complaint filed by the complainant, after making of preliminary

enquiry, police registered offences punishable under Sections 420, 468 and 471 read with Section 34 of the Indian Penal Code against this applicant and others.

According to the learned Counsel for the applicant, except for the presence of the applicant in a house where the meeting between the complainant and her husband on the one hand and the accused persons on the other took place wherein said false representations were made, this applicant has not done anything and that he has not received any amount in the alleged transaction.

According to the learned A.P.P. for the State, the allegation is very specific and it is to the effect that even this applicant was a party to the forgery and fraud committed and he has also received some amount and that this applicant along with co-accused had taken initiative in bringing the complainant and her husband in a house where the meeting in which false representations were made, took place. Therefore, according to him, this applicant is not entitled to be released on bail.

Upon considering the material so far collected by the investigating agency, I am convinced that this is a case which would require custodial interrogation as well as

detailed investigation for finding out if similar frauds have been committed by the accused persons or not. The statements of witnesses, prima facie, indicate that even this applicant was a conscious party to the false representations made to the complainant and her husband and assisted the co-accused in committing the fraud. False documents have been created and they were used as genuine documents. Therefore, it would be a matter of investigation as to how the false documents were created. If any effective investigation is to be made, the custodial interrogation of this applicant would be necessary. Then, there is also a possibility of the applicant tampering with the prosecution witnesses as it appears that he was the person who had taken initiative in bringing the complainant and her husband into the trap laid by this applicant and all other accused persons. In the circumstances, in my opinion, this would not be a fit case for grant of anticipatory bail.

The application stands rejected.

JUDGE

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CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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