**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Application No.1660 of 2017

1) Kalpana w/o Subhash Girase

2) Anandsing s/o Bhagwansing Girase. **.. Applicants.**

Versus

The State of Maharashtra. **.. Respondent.**

Shri. Bharat R Waramaa, Advocate, for applicants.

Shri. A.A. Jagatkar, Additional Public Prosecutor, for respondent.

With

Criminal Application No.1159 of 2017

1) Subhash s/o Chandrasing Girase

2) Komalsing s/o Bhagwansing Girase. **.. Applicants.**

Versus

The State of Maharashtra. **.. Respondent.**

Shri. Bharat R Waramaa, Advocate, for applicants.

Shri. A.A. Jagatkar, Additional Public Prosecutor, for respondent.

Coram: T.V. NALAWADE, J.

Date: 11 April 2017

ORDER:

1) Both the applications are filed for relief of anticipatory bail in CR No.21/2017 registered with Dondaicha Police Station, District Dhule for offences punishable under sections 465, 468, 470, 471, 473, 420, 34 of the Indian Penal Code. The learned counsel Shri. B.R. Warma is representing the applicants in both the proceedings. Both the sides are heard.

2) The crime is registered on the basis of report given by the Sub Registrar of the office of the registration created under the Indian Registration Act. Transaction of sale of one shop premises situated at Dondaicha from City Survey No.542/B was registered in the office of the Sub Registrar on 20-12-2016. This property is shown to be purchased by Anandsing Girase (applicant from proceeding No.1660 of 2017) and the vendor is shown as Kalpana Girase. Subhash Girase has signed as witness to identify the vendor and he is the husband of Kalpana. Komalsing Girase has signed as witness and he is brother

of the purchaser Anandsing Girase. As one complaint was received in respect of document of permission produced along with sale deed, inquiry was made by Collector and it was found that copy of order of permission annexed with the sale deed showing that for removal of restriction the charge of Rs.2,06,640/- was paid and permission was granted by the Collector to sell the shop was a forged document and the copy of challan was also a forged document. In view of this result of the inquiry, the Collector gave direction to the Sub Registrar to take action like giving report to police and accordingly the aforesaid report came to be given on 9-2-2017 and the crime came to be registered.

3) The learned counsel for the applicants submitted that the work of obtaining permission from the Collector was given to one Kishor Wani and the amount was also handed over to him for payment of charges for permission and so whatever is done if it is forgery then it is done by Kishor Wani. Kishor Wani is arrested. During interrogation he supplied information that he was preparing or getting prepared such false record and in the

present matter as all the four applicants were known to him, the applicants had requested him to procure such document, he had prepared the bogus record of permission and also bogus copy of challan showing that amount was paid as revenue. He informed to police that amount of Rs.50,000/- was to be paid to him as consideration but the amount was not paid and promise was given by the applicants to see that if forgery is not noticed by anybody the amount will be paid. He supplied other information from where he got prepared photo copies which are forged documents and he gave information in respect of other persons also for whom he had prepared such documents.

4) There is record like statement of one Yeshwant Patil and it shows that he works as agent for collecting such permissions in the office of the Collector and the applicants had approached him for obtaining permission from Collector office. His statement shows that he had pursued the matter and for removal of the restriction in respect of sale and certificate was issued on 23-12-2016 by office of the Collector. His statement shows that he

had approached Anandsing on 24-12-2016 and on that date Anandsing had said that he would give him amount on 26-12-2016 as the office of the Collector was to remain closed on 24 and 25 December 2016. According to him, on 26-12-2016 when he had approached Anandsing, Anandsing said that he had already purchased the property and he was in no need of such permission. The statement shows that Patil then approached the office of the Collector and informed that on the basis of some permission produced in the office of Sub Registrar, the transaction was already completed and he asked as to how two such orders of permission were issued by the office. It can be said that due to this information action was taken by the Collector office.

5) The learned counsel for the applicants submitted that when applicants realised that some false record was supplied to them by Wani they had approached the Collector to make complaint and on 10-1-2017 such report was given and even statement of Subhash Girase was recorded in the office of the Collector. The learned counsel for the applicants submitted that the applicants

had requested the office of the Collector to take action like filing case against Wani and due to that inquiry was made by office of the Collector. It was submitted that, on 2-2-2017 report was given by Smt. Kalpana Girase to police in respect of this incident. Though this circumstance is there, the complaint given to the Collector is not produced and it can be said that in view of the information supplied by Patil, notices were issued to the present applicants and then the statements were given by Subhash Girase and Anandsing Girase and they had showed willingness to make payment of charges for getting the permission.

6) If Patil had approached the applicants on 24-12-2016 then, in ordinary course, the applicants ought to have approached police or the Collector's office immediately but the aforesaid record shows that they did not approach police or the Collector's office immediately and only when some action was taken by the office of the Collector, they approached police. The record of investigation, which include recovery of rubber stamps and other articles used for forgery, was recovered at the

instance of Wani under section 27 of the Evidence Act. His statement shows that he had done such work in the past also and this circumstance creates probability that the applicants knew that Wani was preparing such record and so they had approached Wani. The statement of Wani given during interrogation shows that he knew all the applicants from prior to the date of incident. At this stage the statement of Wani given before police can be used for deciding present proceeding. It can be said that when the applicants realised that there was no escape, they tried to blame only Wani. This Court had directed the learned counsel for the applicants to show some record to the effect that the amount shown in the challan was really paid to Wani. Cash book of the purchaser was shown to this Court which is highly suspicious in nature and further there is no record to show that Wani had signed in token of receipt of said amount. There is clear possibility that this record is also subsequently created and investigation on that line also needs to be made. The applicants are relatives of each other and it cannot be believed that the owner or the vendor did not know that the record was false. It was the responsibility of the owner to obtain permission before selling the property and so the submission made for Smt. Kalpana that relief can be granted to her as she is lady cannot be accepted. Such instances are increasing day by day and due to such act the Government is being duped. This Court holds that it is not a fit case to grant relief in favour of any of the applicants. In the result, both the applications stand rejected. Interim relief granted in Criminal Application No.1159 of 2017 is vacated. Learned counsel for the applicants requests for continuation of this interim relief. It is refused.

Sd/-
(T.V. NALAWADE, J.)

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