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

CRIMINAL APPLICATION 1984 OF 2016

Dilip s/o Shamrao Jadhav,
Age:48 years, Occu: Business,
R/o Javhari Wada, Gulmandi,
Aurangabad, Dist. Aurangabad

..APPLICANT

VERSUS

1. The State of Maharashtra,
Through Police Inspector,
Police Station, Satara,
Aurangabad, Dist. Aurangabad

2. Kishor s/o Laxmanrao Pise,
Age: 50 years, Occu: Business,
R/o. Pushpa Nagari, Aurangabad,
Tq. & Dist. Aurangabad

..RESPONDENTS

Mr S. S. Thombre, Advocate for applicant;
Mr A. D. Namde, Addl. Public Prosecutor for respondent No.1;
Mr U. A. Bagadiya, Advocate for respondent No.2

CORAM : N. W. SAMBRE, J.

DATE : 24th January, 2017

ORAL ORDER

By the present application under Section 438 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.76 of 2016, registered with police station, Satara, Aurangabad, for offences punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

(2)

2. Complainant Kishore Laxmanrao Pise claims to be the owner of two plots bearing no.19 and 20, out of lands Gat no.107 and 108 at Mauje Satara parisar, Aurangabad, which was purchased by him vide registered sale-deed from Marathwada Purnawad Parishad, Aurangabad through its President Kishanrao Padalkar on or about 29th November 1994.

3. Subsequently, it was discovered by the complainant that his aforesaid plots were sold by the present applicant without any title, as he could notice that somebody else has encroached upon the same and has constructed house, resulting into lodging of first information report. As such, crime in question.

4. Mr Thombre, learned Counsel appearing on behalf of the applicant would strenuously urge that the title of the complainant to the said plots is based on the title of Kishanrao Padalkar, President of Marathwada Purnawad Parishad, Aurangabad and admittedly, the applicant has no connection with the said person. He would then submit that the applicant has purchased plots no. 1 to 16 out of said Gat numbers vide registered sale-deed in 1997 and it is the only property, which he had transferred in favour of subsequent purchasers. According to him, the said property has changed hands almost for four to five times and as such, the present applicant cannot be held responsible.

5. Mr Thombre would then submit that the entire crime is based on documentary evidence and since the said documents are very much

(3)

available, custodial interrogation of the applicant is not warranted, as there are no criminal antecedents against him. He would then urge that for more than nine months the applicant is on pre-arrest bail and as such, the application needs to be allowed.

6. Learned Addl. Public Prosecutor, who is assisted by learned Counsel appearing on behalf of respondent no.2 – complainant, would strenuously oppose the application on the ground that plots no.19 and 20 are transferred/sold by the present applicant in favour of Shaikh Karim Shaikh Madan Patel and Shaikh Baba Shaikh Bane Patel, vide registered sale-deed, which is part and parcel of the investigation papers. Learned Addl. Public Prosecutor then submits that unless the applicant shows his title to the said property i.e. plots no.19 and 20 out of Gat nos. 107 and 108 of Satara Parisar, Aurangabad, there is prima facie material to infer his involvement in the crime in question. He then would urge that since there is prima facie involvement of the applicant in the crime in question, he does not deserve any protection, as his custodial interrogation is necessary so as to find out the mode, manner and nature of offence, as has been committed by him, as also to ascertain whether he is involved in similar type of offences.

7. Having bestowed my thoughts to the submissions made, learned Counsel Mr Thombre was right in pointing out that the applicant has title to plots no. 1 to 16 out of Gat nos. 107 and 108, located at Satara Parisar, Aurangabad, by virtue of registered sale-deed of 1997.

(4)

8. The crime in question revolves around the title of the present applicant to plots no.19 and 20, which were owned and possessed by the complainant. What could be gathered from the record is, the present applicant, without there being any title to plots no.19 and 20, out of Gat no. 107 and 108 of Satara Parisar, Aurangabad, has transferred the same vide registered sale-deed in favour of Shaikh Karim Shaikh Madan Patel and Shaikh Baba Shaikh Bane Patel, who in turn further transferred the same in favour of one Jayraj Ude Patil, who has already developed the said property.

9. From the record, in absence of any title deed in favour of the applicant, it could be inferred that he has fraudulently transferred the aforesaid plots owned by the complainant in favour of third persons.

10. In the above background, having regard to prima facie involvement of the applicant in the crime in question, in my opinion, no case for grant of pre-arrest bail is made out.

11. In view thereof, Criminal Application fails and stands rejected.

(N. W. SAMBRE, J.)

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