IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.60 OF 2017

Sameer Rafique Mohammad Vasaya Applicant
versus
The State of Maharashtra Respondent

Mr.P.B.Shah i/by K.P.Shah for Applicant.
Mr.R.M.Pethe, APP, for State.

CORAM : PRAKASH D. NAIK, JJ.

DATE : 10th July 2017

PC :

1. This is an application for bail in connection with CR No.I-113 of 2016 registered with Talasari Police Station for offences punishable under Sections 419, 420, 465, 467, 468, 471 read with Section 34 of Indian Penal Code as well as Sections 81, 82(A), 2(D) and 83(I) of Indian Registration Act.

2. The prosecution case is that on 26th August 2016 the first information report (`FIR') was lodged by the Clerk working in the office of Sub-registrar, Talasari. The complaint was also forwarded by Smt.Shashikala Karulkar. It is the case of the prosecution that the accused had fabricated the sale deeds by impersonating the original owners. The incidents were pertaining to the lands situated in Talasari taluka. The sale deed dated 8th February 2013 was purportedly executed by Shashikala Karulkar in favour of Amit Vasaya. The said land was thereafter sold by Amit Vasaya to Yakub Mangera on 31st October 2013. It was revealed during the inquiry that there were other sale deeds executed by the accused. It is

alleged that the sale deed was also executed on 10th February 2013 between Smt.Bindu Sari and Amit Vasaya. It is the prosecution case that Smt.Bindu is also not the lawful owner of the said plot of land and she had indulged into the offence by claiming to be the owner of the property. The role attributed to the Applicant allegedly is that he has identified the owner in the sale deed dated 8th February 2013 executed in respect to the land owned by Shashikala Karulkar and the sale deed dated 10th April 2013 wherein he has identified Smt.Bindu. It is also alleged that PAN card of the Applicant is also used in these transactions.

3. Learned advocate for the Applicant submits that the allegations against the Applicant is that he had identified the owner of the properties. It is submitted that in the statement of Shashikala Karulkar, it is stated that he had sold the land in the year 1970 and she is residing at a different place and she has no concern in the said area. It is further submitted that in the second transaction, Bindu is not impersonated and she has stated that she had executed a document. It is submitted that in any case the role attributed to the Applicant is that he had identified the owners of land. He is in custody since 10th November 2016.

4. Learned APP opposed the application for bail. It is submitted that several persons are involved in the crime. He submitted that the main accused Ashok Dhodi who is master mind behind this crime, is absconding. It is submitted that Amit and all the other accused are acting in connivance with each other and they are identifying the properties of the persons who are not residing in the said area and fabricating the false documents and executing the documents by

transferring the properties. He further submitted that the Applicant has played a role in the transactions relating to Shashikala and Bindu. It is submitted that although Bindu has admitted that she has signed the document, she is being impleaded as an accused and she is absconding. He further submitted that the PAN card of the Applicant has been utilised in these transactions and the Applicant is party to the crimes.

5. Perused the documents on record. The Applicant admittedly is the person who had identified the land owner in the transaction dated 8th February 2013. The transaction was executed between Amit Vasaya and Smt.Shashikala by impersonating her. The said land owner was impersonated by a lady namely Farida, whose statement was also recorded. In the second transaction Smt.Bindu had admitted that she has signed the document. It is true that as per the prosecution, Smt.Bindu is not the lawful owner and she has claimed to be the owner on the basis of false claim. However, the Applicant has identified Bindu and it cannot be said that he has identified a wrong person. No doubt although the transactions are under the cloud of suspicion and the Applicant has been attributed the role of identifying the owners, however, the Applicant is in custody from 10th November 2016. The investigation is complete and charge sheet is filed. The primary role is attributed to the co-accused. It is submitted that there are no antecedents in respect of the Applicant, however, the said information is not confirmed by the officer who is present in the Court.

6. Taking into consideration above facts, further custody of the Applicant is not necessary. The Applicant can be granted bail.

7. Hence, I pass following order :

ORDER

(i) Bail Application no.60 of 2017 is allowed;

(ii) The Applicant is directed to be released on bail in connection with CR No.I-113 of 2016 registered with Talasari Police Station on furnishing PR bond in the sum of Rs.30,000/- with one or more sureties in the like amount;

(iii) The Applicant is directed to report the investigating officer of Talasari Police Station once in a month on every first Saturday, between 11.00 a.m. and 1.00 p.m., till further orders;

(iv) The Applicant shall furnish his residential address and mobile phone number to the investigating officer.

(PRAKASH D. NAIK, J.)

MST