

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.421 OF 2017

Smt.Anita Atmaram Pednekar	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.272 OF 2017

Rajesh Rajendra Chanpur	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.273 OF 2017

Rajesh Jawaharlal Gemnani & another	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Sunder Vaswani for Applicant in ABA No.421/2017.

Mr.R.D.Suryawanshi i/by S.S.Vaswani for Applicants in ABA No.272/2017.

Mr.A.B.Deshmukh i/by S.S.Vaswani for Applicant in ABA No.273/2017.

Mr.Arfa Sait, APP, for State.

Mr.V.V.Jobar, Police Inspector, Hill Line Police Station, Ulhas Nagar, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th June 2017

PC :

1. The Applicants in the aforesaid applications are apprehending arrest in connection with CR No.I-394/2016 registered with Hill Line Police Station, Ulhas Nagar. The first information report ('FIR') was registered for offences punishable under Sections 420, 464, 465, 467, 468, 470, 471, 474 read with Section 34 of Indian Penal Code.

2. The Applicants preferred applications for anticipatory bail before the Court of Sessions. The said applications were rejected by the Sessions Court vide order dated 6th February 2017. The Applicants thereafter preferred these aforesaid applications before this Court.

3. The prosecution case is as under :

(a) The complainant Smt.Meena Damodhar Pandre is the Special Deputy Director, Land Records, who lodged the present first information report. On the orders of District Director, Land Records vide order No.Land Record, dated 17th November 2016, CTS No.26637(B) was cancelled and order was passed directing registration of FIR against all persons responsible for the same. The original CTS No.26637 is in the name of Maharashtra Government. If CD conveyance deed was issued by the SDO, then entries in the original property card are made and new property card is issued. While opening new CTS number 26637B, no measurements were carried out neither any entries were made in the original property

card bearing No.26637. In the said property card, conveyance deed area admeasuring 837.79 sq.mtrs. issued in the name of Smt.Suvarnalata Vishnu Salkar as mentioned in the mutation entry no.47 was never issued by the office of SDO and property card bearing No.26637(B) is illegal;

(b) On the basis of false entries name of Smt.Survanalata Salkar was mentioned in the aforesaid property card as an holder of land admeasuring 837.79 sq.mtrs. The aforesaid land which was belonging to the Government, was transferred in the name of private person by illegal means. On 24th August 2002, Smt. Survanalataa Salkar owner as mentioned in the property card bearing No.26637(B) expired and on the said property name of Smt.Suprabha Vishnu Salkar was mutated vide mutation entry no.51 as legal heir. Thereafter on the strength of gazette of Maharashtra Government dtd.28th February 1998, Smt.Suprabha Vishnu Salkar changed her name to Anita Atmaram Pednekar and for changing her name in the property card, mutation entry no.1538/2016 dated 22nd March 2016 was done. At the same time, vide mutation entry no.1539/2016 name of the purchaser of the said property Shri Rajesh Rajendra Chanpur was mutated;

(c) On 9th June 2016, vide mutation entry bearing no.1632, name of subsequent purchasers-accused Shri Rajesh Gemnani and Sanjay Punjwani was mutated. In new property card No.26637(B) in mutation entry no.47, there is a description of survey/measurement no.100/2001, that the said measurement is with regards to property card bearing No.1003 and not with regards to property card

no.26637. The proceedings of mutation entry no.47 and 51 were scrutinized and it was revealed that from 25th April 2011, the said entries were missing from the office of Taluka Land Records. The property cards were cancelled vide mutation entry no.1806/2016;

(d) It is the prosecution case that the accused have forged deed of conveyance issued by the Government of India. On the basis of the false document, the accused set up a false claim in respect to the Government land. The seal impressed on the said document was not original. It is further alleged that the death certificate of Suvarnalata Vishnu Salkar dtd.25th May 1954 is a forged document and the Gram Panchayat which is an issuing authority, had stated that their office record does not depict registration of death of Suvarnalata Vishnu Salkar. The property card shown to be issued by City Survey Office is a forged document and it bears forged signatures of issuing authority. The seal impressed on it are also counterfeit seal used for the purpose of authenticating forged documents. The measurement numbers shown while preparing the property card No.26637(B) are the measurement numbers of other properties carried out by other persons and the Land Record Office has never the land for preparing the property card.

4. The learned advocate for Applicant in application No.421 of 2017 Smt.Anita Atmaram Pednekar has submitted that the Applicant has genuinely sold off the subject property which was standing in the name of the mother of the Applicant by complying with all the necessary formalities without committing breach of the provisions of law. It is further submitted that the administrator of Ulhas Nagar

Township had issued a letter dated 13th July 1988 in favour of the Applicant vide order dated 5th March 2016. The Taluka Inspector of Land Records of Ulhas Nagar had mutated the name vide mutation entry bearing No.1539 of Shri Rajesh Rajendra Chanpur in the property card bearing No.26637. It is further submitted that the title certificate dated 14th March 2016 was obtained with regards to clear and marketable title of the said property. It is further submitted that the accused Rajesh Chanpur sold the said property to Rajesh Gemnani and Sanjay Panjwani who had purchased the said property vide registered sale deed dated 6th May 2016. Thereafter vide order dated 9th June 2016 the Taluka Inspector of Land Records of Ulhas Nagar had mutated the name vide mutation entry No.1632 of Shri Rajesh Gemnani and Shri Sanjay Punjwani in the property card bearing No.26637. Thereafter the Sub-registrar had issued notice to the Applicant and Shri Rajesh Chanpur dated 19th October 2016. The Applicant and Rajesh Chanpur had replied the said notice vide reply dated 4th November 2016. Thereafter the Sub-registrar had issued notice to Rajesh Gemnani and Sanjay Punjwani dated 19th October 2016 and they had through their advocate replied the said notice on 5th November 2016. The Taluka Lands Records, Ulhas Nagar had issued notice dated 8th November 2016 to the Applicant along with the other accused persons. The accused Rajesh Chanpur had sought copies of complaint vide reply dated 18th November 2016 from Taluka Land Records, Ulhas Nagar. The Tahsildar then issued a letter dated 10th November 2016 to the Taluka Land Records, Ulhas Nagar. The Ulhas Nagar Municipal Corporation had issued a letter dated 24th May 2016 to Rajesh Chanpur. It is further submitted that the offence as alleged against the Applicant will not

fall under the penal provisions, as alleged, against the Applicant. The matter relates to documents and custodial interrogation of Applicant, who is lady, is not required.

5. The Applicant in ABA No.272 of 2017 has submitted that the Applicant has genuinely purchased the property from its previous owners by complying with all the necessary formalities without committing breach of any provisions of law. It is submitted that the administrator of Ulhas Nagar township had issued letter dtd.13th July 1988 in favour of Smt.Anita Pednekar. The Applicant had purchased the said property vide registered sale deed dtd.19th October 2015 from its earlier owner Smt.Anita Atmaram Pednekar. Thereafter vide order dated 5th March 2016, the Taluka Inspector of Land Records of Ulhas Nagar had mutated the name vide mutation entry bearing No.1539 of Applicant in the property card bearing No.26637. It is further submitted that the title certificate dated 14th March 2016 was obtained with regards to clear and marketable title of the said property. It is submitted that the accused Rajesh Gemnani and Sanjay Punjwani had purchased the said property from the Applicant vide registered sale deed dated 6th May 2016. Thereafter by order dated 9th June 2016, the Taluka Inspector of Land Records of Ulhas Nagar had mutated the name vide mutation entry no.1632 of Shri Rajesh Gemnani and Shri Sanjay Punjwani in the property card bearing No.26637. Subsequently the Sub-registrar had issued notice to Smt.Anita Atmaram Pednekar and the Applicant dated 19th October 2016. Thereafter Smt.Anita Pednekar and the Applicant had replied the said notice on 4th November 2016. The Applicant sought the copy of complaint vide reply dated 18th November 2016 from

the Taluka Land Records, Ulhas Nagar. Thereafter Tahsildar issued letter dated 10th November 2016 to the Taluka Land Records, Ulhas Nagar. The Ulhas Nagar Municipal Corporation had issued letter dated 24th May 2016 to the Applicant. It is submitted that the Applicant is the bona fide purchaser of the property who subsequently sold it to two other persons namely Rajesh Gemnani and Sanjay Punjwani. It is therefore, submitted that the Applicant has not committed any offence. It is submitted that the matter in any case relates to the documents and the custodial interrogation of the Applicant is not necessary.

6. The Applicants in ABA No.273 of 2016 had submitted that the Applicant No.1 has filed a Civil Suit bearing No.67 of 2016 against City Survey Officer and other government agencies and the Civil Judge, Senior Division had vide order dated 30th November 2016 has directed the defendants i.e. original complainant to maintain status-quo. The original complainant was aware of the orders passed by the civil Court and in spite of that lodged the first information report. It is submitted that the Applicants were bona fide purchasers of the property from Rajesh Chanpur and they have not committed any offence. The administrator had issued a letter dated 13th July 1988 in favour of Smt.Pednekar. The accused Rajesh Chanpur had purchased the property vide registered sale deed dated 19th October 2015 from the earlier owner Smt.Anita Pednekar. Thereafter vide letter dated 5th March 2016, the Taluka Inspector of Land Records of Ulhas Nagar had mutated the name vide mutation entry No.1539 of Shri Rajesh Chanpur in the property. The title certificate dated 14th March 2016 was obtained with regards to clear and marketable title

of the property. The Applicants had purchased the said property vide registered sale deed dated 6th May 2016 from its owner Rajesh Chanpur. Vide order dated 9th June 2016, the Taluka Inspector of Land Record, Ulhas Nagar had mutated the name vide mutation entry no.1632 of the Applicants in the property card bearing No.26637. The Sub registrar had issued notice to the Applicants dated 19th October 2016 which was replied by the Applicants on 5th November 2016. The Applicants, therefore, prayed that they may be granted anticipatory bail.

7. The learned APP vehemently opposed the applications for anticipatory bail. It is submitted that the accused have forged the deed of conveyance. On the basis of forged document the accused have set up a false claim on the Government land. It is submitted that the seal impressed on the said CD are not original and to know as to from where the seals were prepared, there is need of custodial interrogation of the accused. It is further submitted that the death certificate of Suvarnalata Salkar dated 25th May 1954 is a forged document and the Gram Panchayat which is an issuing authority had stated in writing that their office record does not depict registration of death of Suvarnalata Vishnu Salkar. It is further submitted that the property card shown to be issued by City Survey Office is forged document and it bears forged signatures of the issuing authority. Besides that, the seal impressed on it are also counterfeit seal used for the purpose of authenticating the forged document. To know where and how the documents have been forged and counterfeit seals are prepared, it would be essential to interrogate the accused in the custody. It is further submitted that the property card bearing

No.26637(B) is newly fabricated bogus document to set up a claim over the Government land. It is submitted that even the measurement numbers shown while preparing the property card are the measurement numbers of other properties done by the other persons and the Land Records office has never measured the land for preparing the property card. It is further submitted that the statement of the Sub Divisional Officer Sandip Aarote was recorded wherein it is stated that the CD does not bear his signature and the seal impressed upon it also is counterfeit one. It is further submitted that the custodial interrogation of the Applicants is necessary. Learned APP further submitted that the circumstances relied upon by the investigating officer clearly show the needle of suspicion against the accused persons and therefore to elicit the truth, custodial interrogation of the Applicants would be necessary. It is further submitted that the custodial interrogation is necessary for effective investigation of crime which pertains to fabrication of Government record to set up a false claim over the Government land. He pointed out several documents to submit that there is forgery of Government records to claim proprietary rights over the Government property. The alleged offence is the out come of the said transaction shown in respect to the property which belongs to Anita Pednekar. It is further submitted that from the sale deeds filed on record, it appears that about Rs.95 lakhs have been paid by the accused Rajesh Chanpur to Anita Pednekar. The mode of payment is mostly cash transaction. Some part is shown to be paid by cheque. There was further transaction of sale of the property within a period of six months. The death certificate of the mother of Applicant-accused Anita is forged document which is evident from the inquiry conducted with Gram

Panchayat authorities. He pointed out that the Sub Divisional Officer by letter dated 26th December 2016 has stated that their office had not issued any CD of the plot as claimed by the Applicant-accused.

8. Learned APP further submitted that the accused Anita Pednekar was making claim over the open space land from the State Government authorities for the school of which she is the office bearer. However, all of a sudden, she started claiming proprietary rights over the suit property and sold it to accused Rajesh Chanpur. Learned APP pointed out several documents which were apparently forged by the accused persons. It is submitted that all the accused had committed the crime by acting in connivance with each other.

9. Perused the documents on record. The Applicant Rajesh Chanpur had purchased the property from its previous owner by registered sale deed dated 19th October 2015. The Taluka Inspector of Land Records has mutated name of the Applicant in mutation vide entry in property card. The property was sold to Applicants Rajesh Gemnani and Sanjay Punjwani vide registered sale deed dated 8th May 2016. Rajesh Gemnani filed suit in which parties are directed to maintain status-quo. Title certificate was obtained on 14th March 2016 in respect to the said property. Taluka Inspector of Land Records of Ulhas Nagar had mutated name of Applicants Rajesh Gemnani and Sanjay Punjwani in property card. Considering the role attributed to the Applicants Rajesh Chanpur, Rajesh Gemnani and Sanjay Punjwani, custodial interrogation of the said Applicants is not necessary. However, the Applicant Anita Pednekar has played a vital role in the crime. She had sold the property to Applicant Rajesh

Chanpur which was subsequently sold to Rajesh Gemnani and Sanjay Punjwani. The seals impressed on CD were allegedly not original. The death certificate of Suvarnalata Salkar is a forged document. The Gram Panchayat, which is issuing authority, had stated that their office record does not depict registration of death of Suvarnalata Vishnu Salkar. Primary role is attributed to Applicant Anita Pednekar. Hence, I am not inclined to grant protection to Anita Pednekar.

10. Accordingly, I pass following order :

ORDER

- (i) Anticipatory Bail Application No.421 of 2017 is rejected;
- (ii) Anticipatory Bail Application No.272 of 2017 and Anticipatory Bail Application No 273 of 2017 are allowed;
- (iii) Interim order dated 18th April 2017 passed in Anticipatory Bail Application Nos.272 of 2017 and 273 of 2017 is confirmed;
- (iv) The Applicants Rajesh Chanpur, Rajesh Gemnani and Sanjay Punjwani are directed to attend the investigating officer of Hill Line Police Station, Ulhas Nagar thrice a week on every Tuesday, Wednesday and Thursday between 11.00 a.m. and 2.00 p.m. for three weeks and thereafter as and when called for;
- (v) The Applicants Rajesh Chanpur, Rajesh Gemnani and Sanjay Punjwani are directed to co-operate with the investigation and shall provide all documents sought by the investigating officer;

(PRAKASH D. NAIK, J.)

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