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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.636 OF 2017

Ramesh Vitthal Takke .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.592 OF 2017

Ani Appukutan Salarbai alias Anilkumar .Applicant

Vs.

The State of Maharashtra .Respondent

WITH

CRIMINAL APPLICATION NO.350 OF 2017
(Intervention Application)
IN
ANTICIPATORY BAIL APPLICATION NO.592 OF 2017

Suvarna Sakharam Kesarkar .Intervenor

IN THE MATTER BETWEEN

Ani Appukutan Salarbai alias Anilkumar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Ms Trupti Khamkar, for the Applicant in **ABA No.592 of 2017**
Mr.S.V.Marwadi i/b. Ms Trupti Khamkar, Advocate, for the Applicant in **ABA NO.636 of 2017**
Ms Indu Verma, Advocate, for the Intervenor in **Cri. Appln.No.350 of 2017**

CORAM : REVATI MOHITE DERE, J.

DATE : 20.04.2017

P.C.

. Heard learned counsel for the parties.

2. By these Applications, the Applicants seek pre-arrest bail in connection with C.R.No.25 of 2017 registered with the Doda Marg Police Station, Sindhudurg, for the alleged offences punishable under Sections 465, 467, 468, 471, 420 r/w.34 of the Indian Penal Code.

3. Learned Senior Counsel appearing for the Applicant – Anilkumar states that there is no material to connect the Applicant with the alleged offences. He submitted that deceased - Pankaj Kesarkar had executed a Power of Attorney (notarized) in favour of co-accused Shabbir on 30.03.2013 and on the basis of the said Power of Attorney, Shabbir had sold the said property (i.e. Survey No.385, admeasuring 9 Hector 72 R + 2 Hector 24 R potkharab), by a registered Sale Deed, to Bharat Gavas. According to the learned Senior Counsel, since all of them i.e. Applicants and Pankaj were working at Lanja, the Power of Attorney was executed at Kolhapur, which was closer to Lanja and not in Sindhudurg. He submitted that the Power of Attorney

is not with the Applicant as is alleged by the police. Mr. Marwadi appearing for the Applicant – Ramesh Takke submits that the only allegation qua the Applicant is that he had attested the Power of Attorney as a witness. He submitted that the Applicant – Ramesh Takke had no concern with any of the accused.

4. Learned APP opposes the Application. He submitted that all the accused knew each other and that co-accused Shabbir, Gavas and Ramesh Takke (Applicant in ABA No.636 of 2017) were employees of the Applicant – Anilkumar. He submitted that a perusal of the Sale Deed dated 31.10.2015 shows that there was no exchange of consideration and that it is mentioned in the Sale Deed which is on page No.27 of ABA No.592 of 2017, that a sum of Rs.4,50,000/- was paid earlier from time to time and hence no separate receipt is required to be issued. He submits that whereas Clause (3) of the Power of Attorney shows that the money was to be transferred in the account of the deceased, which was not done. He further submitted that despite deceased-Pankaj as well as co-accused Shabbir, being residents of Sindhudurg, the purported Power of Attorney was executed at Kolhapur, which raises grave suspicion, on its authenticity. Learned APP has produced the

original notary register to show that the entry at 236 was subsequently written at the end of the page, whereas the original entry at 236 on the next page was cancelled. He submitted that a copy of the original register was not seized when the Notary (co-accused) was granted anticipatory bail.

5. Learned counsel for the Intervenor supported the submissions advanced by the learned APP. She further submitted that the Power of Attorney is a forged and fabricated document and that the Applicants have prepared the same and on the basis of the said bogus Power of Attorney have illegally conveyed the property to themselves, without any consideration. She submitted that the Applicant – Ani and deceased were business partners and had parted ways in 2012, and hence the possibility of the deceased giving Power of Attorney in favour of co-accused Shabbir, an employee of Applicant – Ani in 2013 does not arise. She submitted that the deceased's property was fraudulently transferred in the name of Shabbir, 2 months prior to Pankaj's death, however, the mutation entry was made only after his death, so that their act would not come to light. She also submitted that the deceased had died a suspicious death and that a Writ Petition in this connection has been filed by the

Complainant in this Court.

6. Perused the papers.

7. The Power of Attorney dated 30.03.2013 was purportedly given by the deceased - Pankaj Kesarkar to original accused No.1 Shabbir. On the basis of the said Power of Attorney purportedly executed by Pankaj Kesarkar in favour of Shabbir at Kolhapur, Shabbir entered into a Sale Deed with co-accused Gavas, at Sindhudurg. According to the Complainant, who is the mother of deceased – Pankaj Kesarkar, her son had never executed any Power of Attorney. According to the Complainant, her son – Pankaj had died in suspicious circumstances on 20.11.2015. She has stated that pursuant to Pankaj's death, mutation entry was effected. It appears that all the accused i. e. co-accused Shabbir, Bharat Gavas and Ramesh Takke (Applicant in ABA No.636 of 2017) are employees of the Applicant – Anilkumar. It also appears that the deceased was a business partner of the Applicant – Anilkumar upto 2012. It also appears that although Pankaj Kesarkar and Shabbir were residents of Sindhudurg, the Power of Attorney was executed at Kolhapur. The stamp paper used for the said Power of Attorney was also

purchased in Kolhapur. A perusal of the original notary register prima facie shows that the entry at Sr.No.236 was incorporated later, at the end of the page, whereas another entry of 236 on the next page was cancelled. The Sale Deed on page No.27 shows that no consideration was exchanged, and it was stated that an amount of Rs.4,50,000/- was paid from time to time and hence no receipts were issued. Prima facie, there is material on record to show the Applicants' complicity in the said case. Hence, custodial interrogation of the Applicants is necessary.

8. Accordingly, the Applications are rejected.

9. It is made clear, that the observations made herein, are only for the purpose of deciding these Applications. If an Application for regular bail is filed by the Applicants, the same shall be decided on its own merits.

10. In view of disposal of the Applications, the Intervention Application does not survive and the same stands disposed of accordingly.

(REVATI MOHITE DERE, J.)