

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 958 OF 2017**

Audumber Shripati Tambe & Anr. ...Applicants
Versus
The State of Maharashtra ...Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 959 OF 2017**

Akash Audumber Tambe ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Satyavrat Joshi a/w Mr. Nitesh Mohite i/b Mr. Jaydeep D. Mane for the Applicants

Mr. S. R. Agarkar, A.P.P for the Respondent-State n ABA/958/2017

Ms. S. S. Kaushik, A.P.P for the Respondent-State n ABA/959/2017

API Mr. Sachin Pawar and PN Mr. Mane, from Economic Offences Wing, Solapur City are present

CORAM : REVATI MOHITE DERE, J.
MONDAY, 3rd JULY, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By these applications, the applicants seek pre-arrest bail in connection with C.R. No. 129 of 2017 registered with the Sadar Bazar

Police Station for the alleged offences punishable under Sections 420, 468, 471 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicants state that the complaint has been lodged after almost 6 years and that the only allegation as against the applicants is that they were present at the place where the transaction with respect to the land took place. He submits that neither of the applicants is a witness to the Sale Deed executed in 2011 and that the said Sale Deed has been executed between the complainant and one Hirachand Jadhav (accused No. 6).

4. Learned A.P.P's opposed the applications. They submit that the applicants are involved in the commission of the said offence. They submitted that not only Form No. 8A of the said property was fabricated, but also, the signature of the Talathi has been forged. They submitted that even the Seal of the Gram Panchayat affixed on the said Sale Deed, has been fabricated. They submitted that all the accused including the present applicants, in collusion with each other, have cheated the complainant. They submitted that infact, the land described in Form No. 8A is not in

existence and that although the complainant had paid a sum of Rs. 6 lakhs, the amount mentioned in the Sale Deed is only Rs. 70,000/-. Learned A.P.Ps submitted that in the supplementary statement, the complainant has set out the reasons for the delay caused in filing the complaint. They further submitted that the applicants have antecedents and that there are almost 9 similar cases registered as against the applicants and the family members.

5. Perused the papers. The complainant is Sudhakar Ghodake. Sudhakar Ghodake, in his complaint, has alleged that his relative Pandurang Javale disclosed to him that he had purchased a plot of land from Tambes, pursuant to which, he and his brother contacted Pandurang Javale. He has stated that Pandurang Javale took him to the house of Tambes. He has stated that the present applicants, Asha Tambe, Amol Tambe, Anil Tambe and the owner of the plot, Hirachand Jadhav i.e. plot Nos. 125 and 126 showed the said plot. He has stated that pursuant thereto, the complainant gave a sum of Rs. 50,000/- as earnest money to Asha Tambe. The total price fixed for both the plots was about Rs. 6 lakhs. It was agreed that the parties would execute a registered Sale Deed on 3rd

January, 2011. According to the complainant, on 3rd January, 2011, Sudhakar Ghodake, his brother-Sanjay, Pandurang Javale came to the office of the Sub-registrar, North Solapur. It is stated that the applicants along with the other co-accused were present at the spot. The applicants, Akash Tambe, Anil Tambe and Amol Tambe are alleged to have asked the complainant to bring a stamp paper, pursuant to which, all of them took the complainant with them to the Bond Writer-Shakeel Shaikh and purchased a stamp paper. Amol Tambe took the stamp paper for writing the contents therein. According to the complainant, after he went through the said document, he questioned why an amount of Rs. 70,000/- was mentioned in the document, when the transaction was for sum of Rs. 6 lakhs, pursuant to which, Amol Tambe told him not to worry and that everything is as per the Government Rules. Accordingly, the Sale Deed was registered on 3rd January, 2011 vide registration No. 42 of 2011. Amol Tambe and Pandurang Javale signed as attesting witnesses. Thereafter, the complainant handed over a sum of Rs.5,50,000/- to Asha Tambe in the presence of all the accused. According to the complainant after a few days, he went to the house of Tambes and asked them to record his name in the Records of the Grampanchayat. Despite request, nothing was done pursuant thereto.

Thereafter, the complainant learnt from Pandurang Javale that the land purchased by him was not in existence. On learning that the land purchased by him was not in existence, the complainant went to the house of Tambes and asked them to show the spot or return the amount. He has alleged that the accused demanded Rs. 5 lakhs more for the plot to be shown and told him that if he was not willing to pay the said amount, he should not come home and also threatened him with dire consequences.

6. The delay has been explained by the complainant in the supplementary statement, wherein, he has stated that because of the threats given by the accused, he did not have the courage to lodge a complaint. He has stated that only when he learnt from the newspapers that the Tambe family had cheated other persons, he gathered courage to lodge the complaint. It also appears that there are several criminal cases which have been lodged as against the applicants; some pertain to body related offences and others pertain to similar offences as the present one. It appears that the land for which the Sale Deed was executed was not in existence; and that Form No. 8A was used as genuine form No. 8A. It also appears that the signature of the Talathi has been forged and fabricated and so also the seal

of the Grampanchayat on the documents. It appears that there are 9 other similar offences registered against the applicants and other accused and that the modus operandi of the accused is same.

7. Considering the aforesaid, this is not a fit case to grant pre-arrest bail to the applicants. Hence, the applications for anticipatory bail are rejected and disposed of as such.

8. It is made clear that the observations made herein are *prima facie* for deciding the aforesaid applications and if an application for regular bail is filed, the same shall be considered on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.