

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1051 OF 2017

Mr. Piyush Pravin Raisonni

... Applicant

vs.

Senior Inspector & Anr.

... Respondents

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Mr. A. P. Mundargi, Senior Advocate a/w Mr. R. D. Soni, a/w Mr. Sachin Khandagale a/w Mr. V. R. Kasle i/b. Ram and Company for the Applicant.

Mr. A. H. H. Ponda i/b. Mr. Jaydeep Deo for the Respondent No.2.

Ms. S. S. Kaushik, APP for the State.

Mr. P. T. Jarhad, PSI LCB, Satara present.

CORAM : T. V. NALAWADE, J.

DATE : 21.08.2017.

P.C.:

1. The Application is filed for the Anticipatory Bail in C. R. No. 185 of 2016 registered with the Shirval Police Station, district Satara, for the offences punishable under Section 420, 463, 465, 471 read with Section 34 of the Indian Penal Code. Both the sides are heard. The papers of investigation are made available. This Court has perused the papers on which the Applicant is placing reliance.

2. The crime is registered on the basis of the report given by the one Kisan Kanade. He and other successor of the original owner of land Gut No. 440 to 461 situated at Dhangarwadi, Tal. Khadala, District Satara are the owners of this land and it appears that at the relevant time there were such 114 successors of the original owner who were entitled to get the shares in the property. The allegation is made that behind the back of the most of the co-sharer present applicant entered into an agreement with four persons like Jaysing, Rajendra, Vasant and Dattatray to purchase the land and that was intentionally done to see that the property is blocked. It is contended that on the basis of such

agreement civil suit is also filed and in that suit relief of injunction is claimed to prevent the owner to alienate the property. The submissions made to show that during pendency of suit the property was sold to 3rd party and 3rd party is made party defendant in the said suit.

3. The learned counsel for the Applicant submitted that there was no intention to deceive anybody and in the year 2009 when the agreement was made the applicant had offered Rs.20,00,000/- per acer to the owner. It is submitted that the subsequent purchaser gave the rate of Rs.44,00,000/- per acre but that does not mean that applicant somehow wanted to deceive the owner. The learned counsel took this court through various documents which were singed by the aforesaid four persons as successors of original owner and also some record to show that even these persons subsequently participated along with the complainant of the present matter when property was sold to 3rd party. He submitted that the applicant parted with the amount of rupees morethan Rs.35,00,000/- and so it cannot be said that the Applicant has deceived the owners. It is submitted that on the contrary the applicant is deceived.

4. The record shows that admittedly there were 51 persons shown as the owners in the revenue record of the land. In spite of that the agreement was made with aforesaid four persons. Out of them the name of Dattatray was not there in the revenue record and his father is still alive and his name is in the revenue record. His father has filed a private complaint against the present applicant of similar nature. The submissions made shown that many owners have filed private complaints. The submissions are made that at least in 6 cases order of issue process is made by the learned JMFC. The learned counsel for the applicant submitted that all those orders are challenged by filing revisions and those orders of issue process are stayed. The learned Counsel submitted that the order of temporary injunction given by the

Trial Court is confirmed by this Court and so it can not be said that the offence is committed by the present applicant.

5. Submissions made show that the father of the present applicant who was a party to the agreement was arrested and he is granted bail. The learned APP submitted that some record needs to be traced and seized. Today the learned APP showed to this Court the original agreement made with three agents who have signed on the disputed agreement of the year 2009 as a party to the agreement. This agreement shows that present applicant was intending to use these person to get the land. There was nothing with these person to show that power was given to them by the owners of any kind. Even the aforesaid three persons of Kanade had no powers given by other owners. These circumstances and that suit is filed against all the persons who are shown as owner in the revenue record cannot be ignored by the Court.

6. These days incidence of creating the record of aforesaid nature are increasing. The developers and builders like present applicant create such documents and then they file litigation. Poor persons are not in position to contest the litigation effectively against such persons. Due to circumstances created by the persons like the applicant the poor persons are brought under pressure and one day they execute the expected document in their favour. In the present matter it can be said that the owners hurriedly executed the sale deed in favour of the 3rd party but that 3rd party also did not pay entire consideration to the owners under pretext that there was litigation like present one was pending. The amount of Rs.7,00,00,000/- (Seven Crore) is still not paid. This is how the poor persons are exploited by the persons like present applicant. The submission of the learned counsel that technically no offence is committed is not at all acceptable. Deceit by creation of record or threats to extort may be of many kinds. The aforesaid record shows that when most of the owners where not ready

to sell the property such documents were created and they are actually used by filing litigation against them. Some vague contentions are made in such cases to the effect that there was oral agreement when ordinarily the courts will not believe such contention. Granting of relief of Anticipatory Bail is within the discretion of the Court. When There are circumstances like mentioned above this Court holds that the Court is not accepted to use discretion in favour of such persons. This Court holds that the custodial interrogation is a must in the matter and only after custodial interrogation more documents can be recovered and some more material will come forward to make clear the *modus operandi* of the applicant. It is surprising that even the agents are not arrested till today. The circumstances that agreement was made in the year 2009 but FIR came to be given in the year 2016 cannot come in the way of the investigating agency in view of the nature of the offence mentioned above. This Court holds that the relief claimed cannot be granted in favour of the Applicant. Application stands rejected. Interim relief already granted stands vacated. The learned counsel for the Applicant submitted that there was interim order in favour of the Applicant and that needs to be continued as order made by the Court the Applicant wants to take to the Supreme Court. In view of aforesaid circumstances, this Court holds that the interim relief cannot be continued. That relief is refused.

(T. V. NALAWADE, J.)