

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1151 OF 2016

Syed Mohammad Shah	...	Applicant
s/o. Abdul Hamid Kadri		
Vs.		
The State of Maharashtra	...	Respondent

CRIMINAL APPLICATION No. 680 OF 2016

IN

ANTICIPATORY BAIL APPLICATION NO. 1151 OF 2016

Ajay Ramchandra Mishra	...	Intervener
in the matter between		
Syed Mohammad Shah	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

ANTICIPATORY BAIL APPLICATION NO. 1155 OF 2016

Gautam Budhrani	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

CRIMINAL APPLICATION No. 681 OF 2016

IN

ANTICIPATORY BAIL APPLICATION NO. 1155 OF 2016

Ajay Ramchandra Mishra	...	Intervener
in the matter between		
Gautam Budhrani	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Niranjan Mundargi i/b. Mr. Vikram R. Sutaria, Advocate for the applicant in both the Anticipatory Bail Applications.

Mr. Deepak Thakery, APP for the State.

Mr. Akhilesh Dubey a/w. Mr. Vagish Mishra i/b. Mr. Sandeep Mishra, Advocate for the Intervener.

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **16th January, 2017.**

P.C.:

These two Applications are filed for pre-arrest bail under section 438 of Cr.P.C. The applicants/accused are prosecuted for the offences punishable under sections 420, 464, 465, 467, 468, 471, 474, 120B, 109, 114, 504, 506 of Indian Penal Code in C.R. No. I-115 of 2016 registered with Panvel City Police station, Panvel at the instance of one Ajaykumar Mishra.

2. The complainant Ajay Mishra claims that the applicant Syed Mohammad Shah is the owner of approximately 140 hectares of land at Village Wahal, Taluka Panvel, District Raigad. He had entered into MOU on 11th June, 1990 with Harmain Builders, a firm. Thereafter the applicant/accused Syed and Harmain Builders executed sale deed dated 6th February, 1995 which was registered on 6th October, 1995 for Rs.45 lakhs. The possession of the land was handed over to the complainant, however, applicant Syed Mohammad on 31st December, 2014 entered into registered sale deed and resold the same land to one Gautam Budhrani, other applicant/accused for Rs.100 crores. Therefore, the complainant gave information to the police that he was cheated. The offence was registered against the applicants/accused.

3. The learned counsel for the applicants/accused submitted that applicant/accused Syed Mohammad on 7th March, 2016, i.e., prior to the present FIR, gave information to the police of cheating and forgery against

the complainant, pursuant to which the offence was registered at C.R. No. 35 of 2016 with N.R.I. Sagari Police Station, District Thane for the offences punishable under sections 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code. The learned counsel pointed out that applicant Syed Mohammad, owner of the land have either entered into MOU or registered sale deed with Harmain Builders at any time in respect of his land. The learned counsel submitted that the entry in the office of Registrar No. 1365 of 1995 of the alleged sale deed dated 6th October, 1995 was bogus. He submitted that the complainant is taken in custody by the police pursuant to the complaint given by the applicants/accused and application for pre-arrest bail No. 679 of 2016 filed by the complainant was rejected by this Court by its order dated 24th June, 2016. He pointed out the relevant observations made by this Court in respect of forged entry in the register maintained by the Registrar of Sub-Assurance, Panvel.

4. The learned counsel for the complainant while opposing this Anticipatory Bail Applications, has submitted that the complainant now has obtained certified copies of his registered sale deed dated 6th October, 1995 and relies on the said document to show that the transaction of the land was genuine. On query in respect of payment of consideration of Rs.45 lakhs, he submitted that the transaction is of the year 1995 and therefore, he could not lay hand over bank record.

5. Learned APP though opposed the Application, he confirms that

complainant Ajaykumar Mishra is in prison and his application for pre-arrest bail was rejected. He also informs that Investigating officer is not present.

6. Perused both the complaints filed by the complainant and the applicant/accused Syed Mohammad. Perused the order passed by this Court on 24th June, 2016. It is to be noted that no documentary evidence in respect of payment of consideration of Rs.45 lakhs by the complainant Ajay Mishra to the applicant/accused Syed Mohammad is shown. Moreover, this Court while passing the order dated 24th June, 2016 has verified the day book which contains all the entries of transactions which took place in the office of Sub-Registrar and has held that there are manipulations and forgery in respect of said entry. In fact the original entry No. 1365 of 1995 stands in the name of one Arun Kumar, employee of Atomic Energy Regulatory Board for seeking housing loan. In view of this, I am inclined to confirm the interim pre-arrest bail granted to the applicants/accused on 11th July, 2016 on the same bail bond. The applicants/accused shall attend the concerned police station as and when called.

7. The Applications for anticipatory bail are allowed. Criminal Applications filed by the complainant are also disposed of accordingly.

(MRIDULA BHATKAR, J.)