

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRI.ANTICIPATORY BAIL APPLICATION NO.1519 OF 2017**

Dhanaji Krishna Gade	.. Applicant
vs	
State of Maharashtra	.. Respondent

with
CRI.ANTICIPATORY BAIL APPLICATION NO.1557 OF 2017

Manish Laxmichand Savala	.. Applicant
vs	
State of Maharashtra	.. Respondent

with
CRI.ANTICIPATORY BAIL APPLICATION NO.1583 OF 2017

Pravin Dinkar Shinde & anr	.. Applicants
vs	
State of Maharashtra	.. Respondent

with
CRI.ANTICIPATORY BAIL APPLICATION NO.1623 OF 2017

Mahesh Ashok Shivdas	.. Applicant
vs	
State of Maharashtra	.. Respondent

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Mr.Amol Mhatre I.b Mr.Dilip Shinde for
Applicant in ABA 1519/2017.
Mr.Sandeep Mishra with Mr.Prakash Mishra for
Applicant in ABA No.1557/2017
Mr.Prashant Patil with Mr.Chitanya Nikte,Mr.Anil
Nagarale for Applicant in ABA No.1519/2017
Mr.PB.Patil for Applicant in ABA No.1623/2017

Mr.Ajay Patil APP for State
Mr.Sanjeev Kadam for Intervener

Coram : A.S.GADKARI, J
Date : 16th NOVEMBER 2017

P.C.

1] The Applicants are apprehending arrest in CR.No.5 of 2017 dated 1.2.2017 registered with Mahabaleshwar Police Station, District Satara under sections 419, 42, 464, 467, 468, 419, 420, 464, 467, 468 read with 34 of the Indian penal code.

2] Heard the learned counsel for all the applicants at length, the learned APP and the learned counsel for the Intervener. Perused the record of investigation.

3] The First Information Report dated 1.2.2017 is lodged by Shri Laxman Gavali, Sub-Registrar of Assurances, Grade-II Taluka Mahabaleshwar, District Satara. It is stated that a person by name Mr.S.B.Irani resident of Colaba, Mumbai had made a representation/complaint with the Office of the Collector of Satara pertaining to documents bearing Registration Nos. 852 of 2015, 1023 of 2015 and 308 of 2016 registered with the office of the Sub-

Registrar of Assurances, Mahabaleshwar, alleging that, the persons named as original landlords therein namely Mr.Pravin Nanavati, Mr.Kirit Damania and Smt. Mehru Jamshed Bamji never executed the said documents and some persons impersonated them as landlords and got the documents executed for usurping their property. In pursuance of the inquiry, conducted by the Office of the Collector of Satara, a direction was issued on 2.1.2017 to register a crime and in pursuance thereof, the present crime is registered. It is stated that on 16.10.2015 a Power of Attorney in favour of the Mr.Pradeep Sawant(accused) came to be executed at Serial no.652 of 2015 by the executors namely Mr.Pravin Nanavati, Mr.Kirit Damania and Smt.Mehru Bamji thereby giving power to the said Pradeep Sawant to deal with the property being C.S.No./Final Plot No.545/5 admeasuring 1700 sq.mtrs out of 13495.15 sq.mtrs situated at Panchgani, Taluka Mahabaleshwar It is stated that the said persons were not present in the Office of the Sub-Registrar of Assurances on the date of execution of the said Power of Attorney. That the said document is registered after payment of necessary charges in that

behalf. It is further stated that on 14.12.2015 a sale deed bearing No.1023 of 2015 pertaining to City Survey No./Final Plot No.545/5 admeasuring 1700 sq meters out of survey no.13495 sq meters including the construction of approximately 125.58 sq.meters standing thereon was executed by the Accused-Pradip Sawant being the Power of Attorney holder of the original landlords-Mr.Pravin Nanavati, Mr.Kirit Damania and Smt.Mehru Bamji on one part and Mr.Pradeep Sawant being the purchaser of the said property on the other part, by making requisite payment of stamp duty. It is further stated that on 18.4.2016 a further Indenture under serial No.308 of 2016 was executed between the Applicants-Pravin Shinde and Jayesh Shinde and co-Accused Vikas Shinde on one part as purchasers and accused-Pravin Shinde on other part as seller for the aforesaid 1700 sq.meters of the piece and parcel of land situated at Panchgani, Taluka Mahabaleshwar by paying requisite stamp duty to the Government Exchequer. As stated earlier, a person by name S.B.Irani lodged a complaint with the Office of the Collector of Satara, and after conducting a preliminary inquiry in that behalf pertaining to

the said documents, the present crime is registered.

4] The learned counsel appearing for the Applicants-Pravin Shinde and Jayesh Shinde (ABA No.1583 of 2017) submitted that, the Applicants are the bonafide purchasers of the property in question and the document bearing No.308 of 2016 which is annexed at page 277 to his application is a genuine document and there is no impersonation by any person therein as it is executed between the landlord Mr.Pradeep Sawant on one part and the applicants and their brother of Vikas Shinde (co-accused) on the other part. He submitted that, before executing the said Sale Deed, the Applicants had verified the documents pertaining to the title of the said property and after being satisfied about the clear title of the said property, devolved in Mr.Pradeep Sawant (co-accused) they purchased the said property for valuable consideration. He submitted that out of the total agreed consideration, the Applicants till the date of registration of present crime have paid Rs.80,00,000/- to the landlord Pradeep Sawant and after realizing the fact that, there is something amiss they have stopped further payment. He further

submitted that the co-accused-Vikas Shinde has already been arrested by the police and the documents pertaining to the present crime are already taken into custody by the police and therefore, the custodial interrogation of the Applicants is not necessary for the further investigation of the present crime. He therefore prayed that the applicants may be granted pre-arrest bail.

5] The learned counsel appearing for the Applicant-Dhanaji Gade (ABA No.1519 of 2017) submitted that the Applicant is an employee of Pravin Shinde (co-accused) and under his direction, he has identified his employer as the purchaser at the time of execution of the Sale Deed no.308 of 2016 on 18.4.2016. Apart from the said fact, the Applicant has no concern with the documents executed inter se between Pradeep Sawant on one hand and Pravin Shinde on the other hand. He therefore prayed that the said applicant may be protected by way of pre-arrest bail.

6] The learned counsel appearing for the Applicant -Manish Savala (ABA No.1557 of 2017) submitted that, the Applicant is having various money transactions with co-accused Pradeep Sawant

and in pursuance of the various other transactions inter-se between the parties, the alleged amount of proceeds of crime have been received by him. He submitted that the alleged amount of Rs.9,00,000/- received by him from Pradeep Sawant (co-accused) is with respect to separate and distinct transactions and he has no concern with the present crime. He submitted that in view thereof the Applicant-Manish Savala may be protected by pre-arrest bail.

7] Learned counsel for the Applicant-Mahesh Shivdas (ABA No.1623 of 2017) submitted that the photo-copy of the original Probate issued by the High Court, Bombay of the will of Smt.Dhan Sorabji Kharas dated 4.8.2011 was handed over to him by his friend Nilesh More and the said Nilesh More requested the Applicant to find out a purchaser for the said property. That he in turn handed over the said copy of Probate to Mr. Balasaheb Jagdale for search of a prospective purchaser for the said property. He further submitted that apart from the above handing over the said document to Mr.Balasaheb Jagdale the applicant has not played any other role in the present crime. He submitted that the Applicant did not receive

any amount even towards his commission as a broker for the said transaction from the parties therein. He further submitted that the Applicant in fact is a victim to the crime committed by co-accused Pradeep Sawant. He therefore, prayed that the Applicant may be protected by pre-arrest bail.

8] The record indicates that a witness in the present case, in his statement dated 7.8.2017 has categorically stated that in September, 2015 he had been to the shop of Mahesh Shivdas (Applicant in ABA No.1623 of 2017) for repairing his vehicle when he showed him the photo-copy of the Probate of the Will of Smt. Dhun Sorabji Kharas issued by the High Court, Bombay and the said Mahesh Shivdas (ABA No.1623 of 2017) requested him to search for a purchaser for the said property. That in pursuance thereof, the said witness contacted another agent and in October 2015 and thereafter the Applicant-Mahesh Shivdas, co-accused Vikas Shinde and two other persons had a meeting at Hotel Shakuntala, Taluka Wai District Satara. In the said meeting, price of the said property was quoted at Rs.3 crores. The co-accused Mahesh Shivdas was present at the said

meeting who mediated in the transaction and thereafter the co-accused Vikas Shinde quoted the price of the said property at Rs.2,65,00,000/-. The record further clearly indicates that it is after the said meeting in October 2015, the co-accused-Vikas Shinde, Mahesh Shivdas, Sudhakar Pawar and Suyash Gade and other accused persons, conspired together to usurp the said property and in furtherance thereof, the first document namely Power of Attorney dated 3.10.2015 bearing Registration No.5689/2015 was registered with the office of Sub-Registrar of Assurances at Satara, allegedly executed by the aforesaid landlords in favour of Pradeep Sawant (co-accused). *Prima facie*, it appears that co-accused Pradeep Sawant by using advanced technique of superimposition and by forging signatures of Mr.Pravin Nanavati, Mr.Kirit Damania and Smt. Mehru Bamaji affixed their photographs to the said Power of Attorney and got the said document executed in connivance with the persons from the office of the Sub-Registrar of Assurances, at Satara. This observation is made on the basis of the fact that the said three persons namely Mr.Pravin Nanavati,Mr.Kirit Damania and Mrs.Mehru

Bamaji, the Executors/Trustees of the Will of Smt.Dhan Sorabji Kharas have in unequivocal terms stated that the said three persons never remained present before any Authority for executing any document. Undoubtedly, execution of the said Power of Attorney is a serious issue of concern for the investigating agency.

It is further to be noted here that after the meeting of accused persons in the month of October 2015 at Wai, as noted earlier, the documents namely Power of Attorney dated 3.10.2015 bearing no.5689 of 2015 and other three documents namely No. 852 of 2016 dated 16.10.2015, No. 1023 of 2015 dated 14.12.2015 and 308 of 2016 dated 18.4.2016 came to be executed within a span of approximately six months. The record further clearly indicates that after execution of the said Sale Deed bearing no.308 of 2016 on 18.4.2016 the Applicants-Pravin Shinde and Jayesh Shinde with co-accused Vikas Shinde paid a consideration of Rs.80,00,000/- out of the total agreed consideration of Rs.2,65,00,000/- to the co-accused-Pradeep Sawant. That possession of the property in dispute has allegedly been handed over in favour of the Applicants in ABA

No.1583 of 2017) by co-accused Pradeep Sawant which fact has been seriously contradicted by Mr.Kadam, the learned counsel for the Intervener/Landlords and it is stated that the landlords are in actual physical possession of the property in question.

9] The investigation so carried out is silent about the fact that the applicant Manish Savala (ABA No.1623 of 2017) has in fact received any amount from co-accused Pradeep Sawant towards proceeds of crime in the present case and there is every probability that there are separate transactions between Pradeep Sawant and Manish Savala as per the contention of the learned counsel for the Applicant-Manish Savala and *prima facie* it appears that the allegations of transfer of proceeds of crime by Pradip Sawant in favour of applicant Manish Savala has no substance in it.

10] As far as applicant Dhanaji Gade (ABA No.1519 of 2017) is concerned it *prima facie* appears to me that, the said applicant under the dictates of his employer namely Pravin Shinde (ABA No.1583 of 2017) has remained present at the office of Sub-Registrar of Assurances at the time of execution of Sale Deed No.308 of 2016

dated 18.4.2016 and has identified his employer Pravin Shinde (co-accused) as the same person. Apart from it, *prima facie* it appears that he has no other role to play in the present crime.

11] It is to be noted here that the Co-ordinate Bench (Smt. Revati Mohite Dere,J) in its order dated 24.4.2017 in ABA No.571 of 2017 filed by co-Accused Suyesh Gade has observed that the present case appears to be a scam, to usurp the property and the Senior Police Inspector to minutely look into all the facts.

12] After perusing the record of investigation, I concur with the said observation. It clearly appears that the accused persons have conspired to usurp the property of the landlords who are stationed at Mumbai and are unable to look after their property and keep a track of the same, for any reason and by taking undue advantage of the said situation, the accused persons have conspired together to usurp the property and to make a scene of selling it to the co-accused. It further appears from the record that as the landlords were not residing in the structure standing on the said property/bungalow the accused persons have put forth other persons to impersonify them

after obtaining relevant documents from Government Agencies. It further *prima facie* appears that the said registration of documents by impersonation of the landlords is not possible without the active connivance from the persons/staff from the Office of the Sub-Registrar of Assurances, Satara and Mahabaleshwar, District Satara.

It further appears that despite the observations made by the coordinate bench in the order dated 24.4.2017 investigation of the present crime is being carried out in a lackadaisical manner *prima facie* to shield somebody.

13] For the reasons stated hereinabove and for unearthing the entire truth behind the present crime, through interrogation of applicants-Pravin shinde, Jayesh Shinde, and Mahesh Shivdas is imperative and accordingly their applications are rejected.

14] In view of the above following order :

(a) Application No.1583 of 2017 of Pravin Shinde and Jayesh Shinde stands rejected.

(b) Application No.1623 of 2017 of Mahesh Shivdas stands rejected.

(c) Application No.1519 of 2017 of applicant-Dhanaji Gade and

Application No.1557 of 2017 of Manish Savala are allowed on the following terms and conditions:

- (i) Applicant Dhanaji Gade in Application No.1519 of 2017 and Applicant Manish Savala in Application No.1557 of 2017 be released on bail in CR No 5 of 2017 on their furnishing PR bond in the sum of Rs.50,000/- each with one or two separate solvent local sureties in the like amount.
- (ii) Applicants Dhanaji Gade and Manish Savala shall attend the Investigating Officer as and when called for between 10.00 a.m. to 2 p.m. and to join the process of investigation till the submission of the charge sheet.
- (iii) Applicants Dhanaji Gade and Manish Savala shall not tamper with the evidence and/or influence prosecution witnesses.

15] At this stage, learned counsel for the Applicants in ABA no.1583 of 2017 submitted that the Applicants are intending to approach the Apex Court against the present Order and prayed that

the operation and implementation of this Order may be stayed for a period of two weeks from today.

At his request, the operation and implementation of this Order with regard to the Applicants in ABA No.1583 of 2017 is stayed for a period of two weeks from today.

(A.S.GADKARI, J)