

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

ANTICIPATORY BAIL APPLICATION NO.1864 OF 2016

Shri Chandrakant Nimba Wagh Applicant

versus

The State of Maharashtra ... Respondent

Mr.Mahendra N. Sandhyanshiv, Advocate for the Applicant.
Mr.Vinod Chate, APP for the State/Respondent.

CORAM : MRS.MRIDULA BHATKAR, J.
DATE : 05th JANUARY,2017.

P.C. :

1. This application is moved under section 438 of Cr.P.C. as the applicant/accused is facing charges under section 420, 464, 465, 468, 471 of IPC and under section 82 and 83 of Registration Act. The offence is registered at the instance of M.S. Kalaskar at C.R.No.212/16 of Malegaon Chavani Police Station on 20/09/2016.

2. The applicant/accused is the owner of a land in village Dahiwal, Malegaon. It is the case of the prosecution that the applicant/accused has obtained loan of Rs.9 lakhs from the Merchant Bank, Malegaon and Rs.3 lakhs from Central Bank, Malegaon by mortgaging the said land in the year 2003. Thereafter the applicant/accused on 07/12/2010 executed sale deed in

favour of one Nitin Vasant Shinde of the same land without disclosing mortgage and the charge on it. It is the case of prosecution that the applicant accused at the time of sale deed used 7/12 extract wherein no charge or encumbrances of the bank was shown. The learned counsel for the applicant/accused has submitted that the applicant/accused is innocent. He has not committed any offence. He is the owner of the land and he sold the said land to Nitin Vasant Shinde for a consideration of Rs.3,20,000/-. The sale deed was executed on 07/12/2010 and six years thereafter i.e. on 28/06/2016, the complaint was registered. The complaint was given by the purchaser with Government Portal. He submitted that the learned Sessions Judge has not appreciated this important fact. Moreover it was mutually agreed between the applicant/accused and purchaser Nitin Shinde that the purchaser would pay the loan amount and clear the encumbrances of the bank. However, instead of clearing these encumbrances, he falsely implicated the applicant/accused.

3. The learned prosecutor opposed this application and has pointed out that complaint was registered on directions given

by the office of Registration, Malegaon u/s 82 and 83 of the Registration Act. On 07/12/2010 at the time of execution of sale deed the applicant/accused made false statement that the land is free of charge and produced bogus 7/12 extract. The police want to find out from where 7/12 extract is produced before the office of Registration or from where it is procured or whether it is a bogus 7/12 extract. Therefore the custody of the applicant/accused is required by police to investigate the forgery and fraud.

4. Perused the FIR and the documents produced herewith. There is substance in the submissions of learned prosecutor. The applicant/accused was aware of the encumbrances on the land. However, he has suppressed this fact not only from the purchaser but also from the office of Registrar. It is necessary to present genuine documents at the time of execution of sale deed or registration of sale deed and disclose true facts. However, the applicant/accused has created a forged 7/12 extract and produced the same. This offence is of serious nature. Hence anticipatory bail is rejected.

(MRIDULA BHATKAR, J.)