

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1971 OF 2017

Naresh T. Wadhwani ..Applicant.
vs.
The State of Maharashtra ..Respondent.

Mr. Rajeev Patil, Sr. Advocate i/by Vishal Kolekar for the Applicant.

Mr.SriramKulkarni for the Intervener.

Mr.Vinod Chate, APP. for the State.

Mr.Prashant Mahale, PSI from Chinchwad Police Station present.

CORAM: A.S.GADKARI, J.

DATE : 07th December, 2017.

P.C.

1. This is an application under Section 439 of the Cr.P.C. for pre arrest bail in CR No.182/2015 dated 2.7.2015 registered with Chinchwad Police Station, Pune under Sections 468, 471, 465, 467, 474, 177, 182, 196, 199 and 200 read with 34 of the Indian Penal Code.

2. Heard Shri. Patil, learned Senior Counsel for the applicant, Shri. Kulkarni, learned counsel for the first informant/intervener and the learned APP. Perused the documents annexed to the application and the record of investigation.

3. The record indicates that, the first informant had filed complaint bearing RCC No.237 of 2015 in the Court of Judicial

Magistrate First Class, Pimpri. It is stated therein that the complainant by a registered Deed of Development dated 21.7.2006 agreed to develop the property of landlord Mahadeo @ Baban Hari Kadhe. The said Deed of Development is registered at Sr. No.5188/2006 and the power of attorney given by Shri. Mahadeo Kadhe in favour of complainant is registered at Sr.No.5189/2006 with the office of the Sub Registrar of Assurances, Haveli. That, the complainant has paid a sum of Rs.34.00 lakhs to the landlord Shri. Mahadeo @ Baban Hari Kadhe. It is stated that earlier on 16.11.1998 Shri. Mahadeo Kadhe had executed an agreement for sale with accused No.1 Mahesh Kripalani and had also executed power of attorney in his favour of one Mr. Prakash Kamble. The said documents were notarized by Shri. V.N. Londhe, Advocate and Notary. As the accused No.1 Mahesh Kripalani could not comply with the terms and conditions of agreement dated 16.11.1998 the said agreement was cancelled by executing a Deed of Cancellation dated 22.3.1999 and the rights of accused No.1 and said Mr. Prakash Kamble stood extinguished on 22.3.1999. That, Shri. Mahadeo Kadhe expired on 20.10.2007. It is alleged that with a view to cause wrongful loss to the complainant, accused No.1 Mahesh Kripalani and accused No.2 Vijay Ramchandani prepared a bogus and fabricated sale deed by using the Power

of Attorney dated 16.11.1998 and executed the said bogus sale deed dated 6.4.2010 in favour of accused No.2 Vijay Ramchandani. Accused No.1 Mahesh Kripalani has also forged signature of Mr. Prakash Kamble. It is stated that though the agreement dated 16.11.1998 was cancelled by the landlord Shri. Mahadeo Kadhe and though the said fact was known to accused No. 1 Mahesh Kripalani and accused No.2 Vijay Ramchandani they created the said forged and fabricated sale deed on 6.4.2010 pertaining to the property in question and by the said documents it is shown that the property in question has been sold to accused No.2 Vijay Ramchandani. That bogus agreement for sale and a power of attorney dated 26.12.2006 is also annexed to the said sale deed dated 6.4.2010. It is specifically contended by the complainant that with view to cause wrongful loss to the complainant and with a view to cause wrongful gain to the accused, the accused No. 1 Mahesh Kripalani and accused No.2 Vijay Ramchandani in conspiracy with applicant Naresh Wadhwani created /prepared a further bogus sale deed and sold the said property to accused No.3 Naresh (applicant). The accused persons subsequently registered the document with the Sub Registrar of Assurances Haveli at Sr. No.9849/2010. on 9.8.2010. The complainant has categorically averred that all the accused

persons including the applicant in conspiracy with each other and with a view to cause wrongful loss to him and to cause wrongful gain to them created the said bogus and fabricated document/documents dated 6.4.2010 and care claiming the said property.

4. The record further indicates that the learned Judicial Magistrate First Class, Pimpri Pune by an order dated 24.6.2015 directed the Chinchwad Police Station to investigate the crime under Section 156(3) of the Cr.P.C. The applicant therefore is apprehending his arrest in view of the investigation being carried out by the concerned Investigating agency.

5. Shri.Patil, the learned Senior counsel for the applicant submitted that, the applicant is a bonafide purchaser of the property in question for valuable consideration. He submitted that the applicant blindly believed upon the representation made by Shri. Vijay Ramchandani (accused No.2) and the search report produced by him of Advocate Shri. Deepak Suhandra. He submitted that the concerned Advocate has issued the search report of the property in question thereby certifying that the said property is free from all encumbrances and therefore, the applicant purchased the said property for valuable consideration. He further submitted that the investigation of the present crime is based on documents and

the same are already seized by the police and therefore, custodial interrogation of the applicant in the present crime is not necessary. He therefore, prayed that the applicant may be protected by way of pre-arrest bail.

6. At the out set, it is to be noted here that the alleged search report given by Advocate Suhandra is absolutely silent about execution of the Deed of Development between the complainant and deceased Mahadeo @ Baban Kadhe which is registered on 21.7.2006 with the office of Sub Registrar of Assurances, Haveli at Sr. No.5188/2006. The said report is also silent about the registration of the power of attorney executed by Mahadeo Kadhe in faovur of complainant at Sr.No.5189/2006. It prima facie appears that the concerned Advocate either under the dictates of accused Nos. 1 and 2 and/or in connivance with the applicant has given the said report, thereby deliberately not making any reference to the said two documents at Sr. No.5188 and 5189 of 2006. It is further to be noted here that before the applicant invested alleged huge amount for the purchase of property in question, has not taken any pains to see whether the said property was already encumbered or not and has ventured into purchasing the said property. It prima facie appears from the record that, the applicant in connivance with accused Nos. 1 and 2 and

with a view to grab the property in question has executed the said bogus and fabricated documents dated 6.4.2010. The complicity of the applicant in the present crime is apparent. Now a days there is a rise in similar type of offences, whereby property of landlords are being granted/engulfed by accused persons by using similar type of modus operandi, where the prices of immovable properties had touched astronomical figures. It is therefore necessary for the police to unearth the entire truth behind the crime and the role played by the applicant and the same is not possible without there being thorough investigation.

7. After taking into consideration the serious allegations against the applicant and the gravity of the offence this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

8. At this stage the learned counsel for the applicant requested that the interim relief granted to the applicant may be continued for a period of two weeks so as to enable him to approach the Hon'ble Supreme Court. At his request interim relief is hereby extended for a period of two weeks from today.

(A.S.GADKARI, J.)