

Nalawade

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 2109 OF 2017

Hemant B. Motadoo	...Applicant.
vs.	
State of Maharashtra	...Respondent.

Mr. Niranjan Mundergi for the Applicant.
Mr. S.H.Yadav, APP. for the State.

CORAM: A.S.GADKARI, J.
DATE : 04th December, 2017.

P.C.

1. This is an application under Section 438 of the Cr.P.C. for pre-arrest bail in CR No.500/2017 registered with Wanvadi Police Station, Pune under Section-420, 465, 468, 471, 473 read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant, learned APP and perused the record.

3. The first information report is lodged by Jayprakash Goyal. It is stated that, he purchased the landed property bearing Survey No.75/2/1 lying and situate at Village Wanvadi, Pune from Smt. Yasmin Fahim Sayyad after making payment of valuable consideration by a registered sale deed dated 28.10.2010. That, in furtherance of the said sale deed Mutation entry No.5692 has been effected in the revenue records and the name of his firm has been mutated in the 7/12

extract. The first informant subsequently came to know that the applicant by allegedly executing a notarized agreement dated 22.6.1997 and power of attorney dated 27.6.1997 claimed the property in question from the original landlord Revrand Father Morsilins Sabsetiyam Nunas. That, the said documents are notarized by Shri. Pramod Sharma, Notary Govt. of India. The informant therefore sought information from the concerned department regarding date of appointment of Notary and it was revealed that the said Notary has been appointed from 21.7.1997 having registration No.907. That, the documents on the basis of which the first informant claimed ownership are dated 22.6.1997 and 27.6.1997 and therefore, the first informant realized that the applicant has committed the act of cheating as contemplated under various provisions of Indian Penal Code. In the premise, the present crime is registered.

4. The learned counsel for the applicant submitted that, there is a long pending litigation between the parties herein. That the first informant has not disclosed about any suit filed by the applicant and without disclosing the said fact, present crime is registered belatedly. He further submitted that he was not aware of the fact that the concerned Notary was having licence to practice and therefore, it is not the fault of the applicant while approaching him for notarizing the said

documents. He further submitted that the custodial interrogation of the applicant is not necessary for the investigation of the present crime and the applicant may be granted pre arrest bail.

4. Perused the record of investigation. During the course of investigation police have recorded the statement of Shri. Pramod Sharma who has alleged to have been notarized the agreement and the power of attorney in favour of the applicant herein. The said witness has categorically denied that he ever notarized any such document as he has got licence from the Government of India only on 21.7.1997. The said witness has further denied that the seal put up on the said documents and his signatures appearing thereon are of his. Inter alia he has stated that the said seal and his signatures are also forged. The record clearly indicates that, it is the applicant only, who is aware about the execution of the said documents on the basis of which he is claiming ownership. The said fact of denial by the Notary indubitably aggravates the nature of offence, It appears that the entire foundation of the applicant for claiming the property in question is based on forgery and fabrication of documents and it is necessary for the police to thoroughly interrogate the applicant for unearthing the truth behind crime.

5. 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.
6. Application is accordingly rejected.

(A.S.GADKARI, J.)