

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

ANTICIPATORY BAIL APPLICATION NO.2111 OF 2017

Shri. Sanjay Eknath Mahajan & Anr. Applicants

V/s.

The State of Maharashtra ... Respondent

Mr. Ashutosh M. Dube, a/w. Anil S. Pandey for the Applicants.

Ms. A.A. Takalkar, APP for the Respondent - State.

CORAM : A.S.GADKARI, J.

DATE : 18th DECEMBER 2017

P.C.:

1. This is an application under Section 438 of the Cr.P.C. for pre-arrest bail in CR No.283/2017 dated 16.09.2017 registered with Vitthalwadi Police Station under Sections 420, 452, 467, 468, 471, 474, 120(B) read with 34 of the Indian Penal Code.

2. Heard the learned Counsel for the Applicants, learned APP and perused the record of investigation.

3. The first information report is lodged by Mr. Bapu Mahajan. It is stated that the property in question i.e. house situated at Lalchakki Road, Ulhasnagar – 4 came to his share in the partition effected in the year 1994. It is stated that since the year 1992, the first informant had taken permission to conduct the business of STD/PCO in the name of his wife Smt. Shobha Mahajan at the

said place. That, Applicant No.1 Mr. Sanjay Mahajan was residing with him for the purpose of education. As the Applicant No.1 failed to complete his education, he started helping the wife of informant in the said business of STD/PCO. That, the first informant is doing service and when in the year 2006 he had been to the Corporation's office for making payment of house tax, it was revealed that the said property is transferred in the name of Applicants. It was further revealed that, on the basis of a sale deed which has been allegedly executed in the year 1992 on a stamp paper of Rs.50/-, the said property has been transferred in the name of Applicants. The allegation against the Applicants in nutshell, therefore, is that, the Applicants by executing a forge/bogus sale deed of the property in question, got it transferred in their name in the record of Corporation and other relevant records and has grabbed the said property of the first informant.

4. The learned Counsel for the Applicants submitted that, as a matter of fact, there are various litigations pending challenging the partition between the Applicants and the first informant. He submitted that the said property was never given to the share of first informant by way of partition and the said partition deed executed in the year 1994 is a disputed document. He further submitted that, as a matter of fact, the Applicants by paying substantial consideration have acquired the said property and are in actual use and

occupation of the same. He further submitted that, the co-accused, namely, Mr. Eknath Mahajan and Smt. Leelabai Mahajan i.e. the father and mother of the Applicants have been granted pre-arrest bail by the Sessions Court. He, therefore, prayed that the Applicants may be protected by way of pre-arrest bail.

5. The record of investigation indicates that, the police have recorded the statement of Mr. Sukhdev Mahajan, aged about 98 years. The said Mr. Sukhdev Mahajan is the grand-father of the Applicants. *Prima facie* it appears that, the said witness has corroborated the version of the first informant in all material aspects and has said that he never sold the said property in question to the Applicants herein and the document on which the Applicants are claiming ownership is a bogus document. The record of investigation further reveals the complicity of the Applicants in the present crime as apparent.

6. After perusing the record of investigation and after taking into consideration the serious allegations against the Applicants and the gravity of the offence, this Court is of the view that the Applicants do not deserve to be protected by pre-arrest bail.

7. Application is accordingly rejected.

(A.S.GADKARI, J.)