

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

ANTICIPATORY BAIL APPLICATION NO.1315 OF 2018

Kishor Mohanlal Sugandh		Applicant
<u>Vs.</u>		
The State of Maharashtra		Respondent

Mr. Hitesh P. Shah for the Applicant.
Mr. S.S. Pednekar APP for the State.

Coram : ***Smt. Sadhana S. Jadhav, J.***
Date : 6th July, 2018

P.C.:

1 Heard the learned counsel for the applicant and the learned APP.

2 This is an application under Section 438 Code of Criminal Procedure. The applicant herein is apprehending his arrest in Crime No.236 of 2018, registered at Panchvati Police Station, Nashik, for the offences punishable under Sections 420, 465, 467, 468, 471, 345 read with 34 of Indian Penal Code.

3 It is the case of the prosecution that on 22nd June 2018, one Gautam Shantilal Contractor (Mishri), original resident of Ahmedabad lodged a report at the police station alleging therein that he has own ancestral land at Dindori road, admeasuring 3,985.57 sq. mtrs. In the year 2004, the present applicant had approached him for the sale and purchase of the said plot. However, he had learnt from reliable sources that they are not bonafide purchasers but are in the habit of cheating people. Thereafter, he had transferred the said land in the name of his deceased brother- Sunit Contractor (Mistri) and his legal heirs by different sale-deeds.

4 That after the execution of the said sale-deeds, he had met Hemraj Patil, who informed him that before purchasing the land from the complainant, he had given an advertisement in “Daily Deshdoot” on 15th November 2016 and that the present applicant and one Mr. Ravindrasingh Khatri had taken objections and thereafter demanded Rs.20.00 Lacs. He had therefore issued a cheque of Rs.50,000/- and two demand drafts of Rs.9,75,000/-. The

cheques were delivered in the office of B.B. Thakare in the presence of the present applicant and Dinesh Marathe. There was also a memorandum of understanding on non judicial stamp of Rs.100/-.

5 It is further alleged that on 15th April 2017, the applicant had issued a legal notice through Advocate, Dattatray Madhav Chakor and had thereafter demanded Rs.20,00,000/- and also threatened that he would renew the proceedings in the suit which had earlier withdrawn. Hemraj Patil had shown the first informant as General Power of Attorney and agreement-to-sale dated 24th December 1990, which was notarised by Advocate C.M. Bora and the said general power of attorney was signed by the first informant, his mother and other family members. The said general power of attorney and non judicial stamp are impounded vide orders dated 30th April 2004 and 30th August 2004. According to the first informant, he was shocked to see this fact and believed that he had been cheated by the present applicant and hence lodged the F.I.R. It is pertinent to note that the applicant herein had filed Regular Civil

Suit No. 478 of 2017 before the Civil Judge, Junior Division, Nashik against Gautam Shantilal Contractor, Anjana Sunit Contractor and others seeking permanent injunction. The said suit was filed on 23rd August 2017 and the next hearing date was 6th July 2018. There is also a special suit between the applicant and Hemraj Patil, which is registered as Special Civil Suit No. 293 of 2008.

6 Learned counsel for the applicant submits that the dispute is of civil nature and that the criminal course of action was unwarranted. As against this, the learned APP submits that the applicant has cheated some other persons and that C.R. No. 62 of 2006 is registered against him at Sarkarwada police station on 1st March 2006. According to learned APP, the custodial interrogation is necessary for recovering the documents and Rs.20,00,000/-.

7 In view of the papers of investigation, the submissions advanced across the bar, it prima facie appears that in fact the first informant was aware that the two set of documents are impounded

by different orders. The next scheduled date before the Court was 6th July 2018, The present F.I.R. is therefore filed on 22nd June 2018. Since the Civil Court is seized with the matter, the applicant deserves to be granted pre-arrest bail.

8 The observations are restricted to application under Section 438 of the Code of Criminal Procedure, 1973 and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial. Hence, the following order is passed :

ORDER

- i) The application is allowed.
- ii) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one or more solvent sureties in the like amount.
- iii) The applicant shall report to the concerned police station as and when called by Police and co-operate the investigating agency.

(Smt. Sadhana S. Jadhav, J)