

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1822 OF 2017

Prabhunath R. Pandey vs. State of Maharashtra

WITH

ANTICIPATORY BAIL APPLICATION NO. 277 OF 2018

Mohd. Ibrahim Memon vs. The State of Maharashtra

WITH

ANTICIPATORY BAIL APPLICATION NO. 293 OF 2018

Rajesh S. Patil vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
--	---------------------------

Mr. Kuldeep Patil for the Applicant in ABA No.1822/2017.

Mr. D.V.Godbole i/by C.P. More for the Applicant in ABA
No.293/2018.

Mr. J.S.Lohokare, APP for the Respondent-State.

Mr. Rajesh Singh for Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 6th June, 2018

P.C.

1. By a reasoned Order dated 13.11.2017 the applicant Shri. Prabhunath Pandey was granted interim relief. In the said order dated 13.11.2017 it is observed by the co-ordinate Bench (Shri. A.M.Badar, J.) that all the documents in question are not in the custody of the said applicant and therefore, the interim relief was granted to

him. Subsequently the other applicants namely Shri. Mohd. Memon and Shri. Rajesh Patil were granted interim relief by this Court by an Order dated 16.2.2018.

2. Heard the learned counsel for the applicants, the learned counsel for the first informant and the learned APP. Perused the record of investigation.

3. The prosecution case in brief is that, the applicants Shri. Prabhunath Pandey and Mohd. Memon forged and fabricated signatures of the first informant and executed a power of attorney dated 31.8.2007 thereby giving them authority to sell a piece and parcel of land lying and situated at Village Gokhivare, Taluka Vasai, District Thane. That, on the basis of the said power of attorney the applicant Shri. Prabhunath Pandey and Shri. Mohd. Memon further executed a power of attorney in favour of the applicant Shri. Rajesh Patil (ABA No.293/2018) on 6.9.2007 delegating power to sell, transfer and/or to deal with the aforesaid property. That, on the basis of the said power of attorney dated 6.9.2007 it is alleged that the applicant Shri. Rajesh Patil got the said land transferred in

his name by way of a sale deed dated 12.10.2012 which is duly registered with the Sub Registrar of Assurances, Vasai, District Thane. The first informant has alleged that the signature on the power of attorney dated 31.8.2007 has been forged by Shri. Prabhunath Pandey and Shri. Mohd. Memon. In the premise, the prosecution is seeking custody of the applicants for investigation of the present crime.

4. As noted earlier, the documents in question are not in possession of the applicant Shri. Prabhunath Pandey. It is a fact that Mr. Rajesh Patil is a bonafide purchaser of the said land for valuable consideration from Mr. Prabhunath Pandey and Mohd. Memon in furtherance of the power of attorney dated 6.9.2007. Prima facie, it appears that the applicant Shri. Rajesh Patil has no role to play in the present crime. The transaction between Shri. Prabhunath Pandey and Shri. Mohd. Memon on one side and Shri. Rajesh Patil on other side in pursuance of power of attorney dated 6.9.2007 appears to be a bonafide transaction.

The power of attorney dated 31.8.2007 allegedly

executed by the first informant Shri. Rehamtullah Khan in favour of Shri. Prabhunath Pandey and Shri. Mohd. Memon only requires consideration. The first informant is disputing his signature on the said power of attorney. The record indicates that in furtherance of Order dated 13.11.2017 the applicant Shri. Prabhunath Pandey has already given his specimen signatures to the Investigating agency and has also produced balance documents as per the directions issued by this Court.

5. In view of the above and after taking into consideration the peculiar facts of the case, this Court is of the opinion that, the custodial interrogation of the applicants for further investigation of the present crime is not necessary and the applicants are entitled to be protected by pre-arrest bail.

6. In view thereof, the interim relief granted by Orders dated 13.11.2017 and 16.2.2018 is hereby confirmed and all the applicants are directed to comply with the conditions mentioned in the said Orders dated 13.11.2017 and 16.2.2018.

Applicant Shri. Rajesh Patil is granted pre arrest bail on same terms and conditions as has been granted to Applicant Shri. Prabhunath Pandey.

7. It is to be noted here that, the applicants are directed to attend the Investigating Officer as and when called for till the submission of final report between 11.00a.m.to 1.00 p.m. and to join the process of investigation.

It is needless to mention that before calling the applicants to the Police Station the Investigating Officer shall issue a notice under Section 160 of the Code of Criminal Procedure.

9. Applications are allowed in the aforesaid terms.

(A.S.GADKARI, J.)