IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2146 OF 2018

Amir Gaffar Shaikh .. Applicant
Vs.
State of Maharashtra .. Respondent

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Ms.Sushma T. Mishra i/b. Mr.Viral K. Rathod, Advocate for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent – State.

ACP Bajirao Bhosale and Sr.PI R.R. Daundkar, Crime Branch, Thane, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : OCTOBER 25, 2018.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.I–88 of 2017, registered with Thane Nagar Police Station, Thane. The case is being investigated by Crime Branch, Thane. The offences were registered under Sections 419, 420, 467, 468, 471, 120B and Section 13(1)(d), 13(2) of Prevention of Corruption Act. Applicant had preferred an application for anticipatory bail before the Court of Session, which has been rejected vide order dated 4th October, 2018.

2 The prosecution case is that on 27th April, 2017, one Mahesh Patil has registered an FIR with Thane Nagar Police Station, Thane, for the offences punishable under Sections 420, 467, 468, 471 and 120-B read with 34 of Indian Penal Code ("IPC", for short). The husband of complainant's sister used to manage the all property work which belonged and owned by the grandfather of the complainant. It is alleged that the relationship between him and husband of Bhamini was not cordial and hence, they were not on talking terms. In January 2017, due to poor financial condition, he was desirous of selling the ancestral land. After procuring copies of the 7 x 12 extract with respect to Survey Nos.439/1, 440/1 and 287/6. The complainant was shocked to find the name of the brother of the applicant along with co-accused in the column of ownership. After perusing the requisite Mutation Entry bearing No.1091 and upon perusing the registered agreement dated 17th September, 2008, he procured certified copies of the agreement dated 17th September, 2008 and it was further learnt that by virtue of the same, brother of the applicant has transferred the land on his own name on the basis of power of attorney. The complainant noticed that there was agreement executed between his grandmother Janabai and brother of applicant on 25th May, 1985. However, since his

grandmother had already expired in 1975, he realized that the said agreement was forged. The complainant had also referred to the power of attorney executed by Bhamini Patil, Manjula Patil, Dinaxi Patil, Meena Raut and others. It is alleged that the applicant sold the land to himself. On inquiring with the said persons, the complainant was told that brother of the applicant had obtained signature of them for seeking road from their land and that at no point of time they had agreed to sell their lands to the applicant. In spite of fact that the complainant's grandmother had passed away in 1975, co-accused had entered into agreement for sale in 1985, which is forged document and even power of attorney is also false document.

3 Learned advocate for the applicant submitted that the entire case of the complainant is false and frivolous. The complainant has suppressed facts. Other accused are arrested and they are released on bail. Charge – sheet is filed against them. The matter relates to the documents, custodial interrogation of the applicant is not necessary. The version of the complainant is after thought. The sale-deed was executed between the family of the complainant and applicant in 2008, and, the name was entered into revenue record by virtue of

Mutation Entry No.1091. The said entry was subject to challenge by virtue of RTS Appeal No.180 of 2018. Vide order dated 27th July, 2011, the challenge to that entry was rejected by the HGO, wherein it was observed that the complainant and others had denied the agreement with the applicant. It is submitted that the requisite documents were executed several years ago. The complainant was aware of the transactions. Several proceedings are pending in the Court. FIR was lodged belatedly with a view to pressurize the applicant and others to submit the demands of the complainant. Learned counsel relied on compilation of documents such as Deed of Confirmation dated 2nd November, 2017, between complainant and other witnesses, Deed of Confirmation dated 2nd November, 2017, between complainant and other witnesses and Rakesh Agarwal, M/s.Dimple Construction, Deed of Confirmation construction dated 2nd November, 2011, between complainant and other witnesses and M/s.Salangpur Gruh Nirman and copy of notice under Section 150(2) of Maharashtra Land Revenue Code. In the first charge – sheet, the applicant is not named as accused. The complainant has suppressed orders dated 27th July, 2011, passed in RTS Appeal No.183 of 2010, and order dated 26th April, 2013, passed in Appeal No.218 of 2011, by Collector Thane. The applicant is not concerned with alleged crime. The only role attributed to the applicant is that notices under Section 150 of MLRCC issued to original owners were handed over by Talathi to applicant.

4 Learned APP submitted that the accused is involved in a serious crime. There is sufficient evidence against the applicant. The applicant has actively participated in the crime in furtherance of common intention with other accused. Without authority, the applicant obtained various notices to be served on various land owners and forged their signatures on it. It is further submitted that two other cases are registered against the applicant. Learned advocate for the applicant submitted that the applicant has been granted anticipatory bail in the said cases. It is submitted that the custodial interrogation of the applicant is necessary.

5 Learned APP pointed out the statements of the witnesses and the other documents, which shows according to him that the applicant had played role in the commission of crime and, he is not entitled for grant of relief, as prayed for in this application. The applicant is involved in forgery of documents. According to prosecution, applicant has acted in furtherance of

common intention with other accused. He has obtained various notices to be served on original land owners and forged their signatures on it. The applicant has antecedents. According to prosecution, agreement dated 25th May, 1985, was itself a forged document and the applicant is involved in forgery. He has forged signatures of original land owners and helped the other accused to execute agreement. The other accused were arrested and granted bail. Considering the allegations no case for grant of anticipatory bail is made out. Hence, application deserves to be rejected.

:: O R D E R ::

(i) Anticipatory Bail Application No.2146 of 2018, is rejected and disposed of.

(PRAKASH D. NAIK, J.)