

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

ANTICIPATORY BAIL APPLICATION NO. 2236 OF 2018

Mahendra Visanji Keniya

... Applicant

Vs.

State of Maharashtra

... Respondent

...

Mr. Mangesh Patel for the applicant.

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

...

CORAM : PRAKASH D. NAIK, J.

DATE : 29th OCTOBER, 2018.

P.C.

1. This is an application for anticipatory bail in connection with C.R No. I-116 of 2018 registered with Dahanu Police Station for the offence punishable under Sections 420, 467, 468, 471, 472, 506 read with 34 of the Indian Penal Code.

2. The prosecution case is that the complainant was the owner of the land having total area of 150 acres and valued Rs. 10 crores. Accused No.1 is the son of cousin brother of the complainant. Complainant is old lady aged about 76 years. She was interested in selling the said property. Accused No.1 was related to her. He informed that he has arranged some purchaser for the said property. Accused then prepared the sale-deed in respect to the

property and the complainant was taken to the Registrar Office where the documents were signed in respect to property for lesser consideration. The applicant is a person who alleged to have acted as attesting witness to the document which were executed before the office of Registration. The applicant had preferred anticipatory bail before of the Sessions Court which has been rejected by the Sessions Court and the applicant has approached this Court for anticipatory bail.

3. Learned counsel for the applicant submitted that applicant has no concern with the alleged transaction. The only role which has been assigned to him is to sign the document as attested witness. Entire matter relates to the documents. The transaction was executed with the assistance of the accused No.1 and other accused. It is submitted that complainant has not impersonated any person having attested the documents. The complainant was present in the Registration office and therefore applicant cannot be attributed the role of offence of forgery and cheating. It is further submitted that other accused has been granted anticipatory bail.

4. Learned APP submitted that applicant has played a major role. He was acting in connivance with accused No.1 and other accused. He acted as attesting witness. Custodial interrogation of

the applicant is necessary to find out the truth.

5. I have perused the FIR annexed to this application. The case of the other accused was that they were bonafide purchaser of the property. Said accused were granted anticipatory on the ground that sale-deed executed in the presence of Sub-Registrar, Dahanu. Accused No.1 being relative of the complainant has taken the lead in the document. Considering their role, the Sessions Court had granted anticipatory bail to the said accused. Application preferred by the applicant was rejected on the ground that person who is attesting should know the person for whom he is acting as attesting witness. It is alleged that all the accused in order to cheat the complainant have prepared the document. It is not the case of the prosecution that complainant was impersonated and wrong person has been identified or that the applicant has acted as attesting witness to a wrong person. The purchaser were granted anticipatory bail on the ground that they were bonafide purchaser and that the documents were executed before the Sub-Registrar Dahanu and there was no reason for them to suspect the transaction. The prosecution is trying to prove that applicant is connected with accused No.1 being associated with him. However, considering the ground on which purchasers were

granted anticipatory bail, the applicant's case cannot be distinguished. Accused No.1 was arrested and he is in custody and nothing has been brought on record during the course of interrogation of accused No.1 showing the involvement of applicant. In the circumstances, applicant is entitled for grant of anticipatory bail. Hence, I pass the following order.

ORDER

- i) In the event of arrest of applicant in connection with CR No. 116 of 2018 registered with Dahanu Police Station, the applicant be released on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- ii) The applicant shall report the Investigating Officer of the concerned Police Station once in a week on Friday between 10 a.m. to 12 noon for a period of one month;
- iii) Anticipatory Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)

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signed by
Sachidanand
Kuttan Nair
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