

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

ANTICIPATORY BAIL APPLICATION NO. 2583 OF 2018

Vijayraj Ramvriksh Pal	... Applicant
Vs.	
The State of Maharashtra	... Respondent

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Mr. Priyanka K. Dubey for the applicant.
Mr. Prashant Jadhav, APP for the Respondent-State.
Mr. Asif V. Baig, API, Manikpur Police Station is present.

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CORAM : PRAKASH D. NAIK, J.
DATE : 17th DECEMBER, 2018.

P.C.

1. This is an application for anticipatory bail in connection with C.R. No. 412 of 2018 registered with Manikpur Police Station for offences punishable under Sections 420, 507 of Indian Penal Code. First Information Report was lodged on 20th November, 2018. Applicant had preferred an application for anticipatory bail before the Sessions Court which has been rejected by order dated 10th December, 2018.

2. The complaint was lodged by Hemant Kumar Gopaldas Verma lodging that he had executed the transaction of purchase of the property bearing Survey No. 75, Hissa No.2 in respect to the portion of the said land to the extent of 20 guntha. The accused had represented that he had purchased the said property from the

original owners. For the said transaction consideration was agreed to the tune of Rs.1 Crore 30 Lakhs. According to the complainant, the amount of Rs.26 lakhs in cheque and cash was parted to the accused. However, the possession of the property was not given. It is further alleged that in November, 2016, the complainant has noticed that some persons were present at the said property and it was alleged that the said property sold to them. The complainant approached accused however, he did not fulfill the promise hence, the FIR was lodged on 20th November, 2018.

3. Learned counsel for the applicant submitted that the complainant had not paid entire consideration. Applicant had not received any amount in cash. Admittedly, only part of the consideration was parted by the complainant and the balance consideration was not paid and hence possession was not given to him. It is further submitted that the applicant had not sold the same property to others. The applicant has executed transaction with several other persons in respect to different property which is part of Survey No. 75, Hissa No.2. The complainant was sold the area of 20 Gunta whereas others were sold different portion of the said land. It is further submitted that applicant had executed an

agreement with the original owners in 2013 by paying consideration to them and therefore he had right to execute the transaction with the complainant and other persons. Learned counsel for the applicant pointed out the agreement executed with others and submitted that the properties which were sold to them were distinct. It is further submitted that complaint had been lodged at the instance of one Javed Ansari who was the Superintendent of Police. It is submitted that the police were acting hand in glove with the complainant, the complaint in that regard was made by the applicant to the concerned police authorities on 26th November, 2018. It is submitted that there is no evidence of payment being made by the purchaser in cash and all other persons with whom the applicant had executed transaction of sale of property and not paid the entire consideration and hence, the possession was not given to them.

4. On the other hand, learned APP pointed out that the applicant had executed transaction with several persons. He had no authority to execute such transactions. There is no evidence to show that the applicant is the owner of the said property. Applicant has accepted amount of Rs.97,54,000/- from various purchaser and the property was not delivered to them. It is

submitted that during the course of investigation, the Investigating Officer has recorded statement of all persons who alleged to have deceived by the applicant. The statement also indicates that applicant has also borrowed the amount from some of the persons but was not returned to them. It is further submitted that there are six cases registered against the applicant with Nalasopara Police Station, Waliv Police Station and Tuling Police Station vide CR No. 64 of 2018, 2/2011, 214/2014, 543 of 2016, 580 of 2017 and 901 of 2018. It is therefore prayed that application for anticipatory bail may be rejected.

5. On perusal of the documents annexed to this application and documents tendered by the learned advocate for the applicant, it appears that applicant had executed the transaction of sale of the property with the purchaser. Agreement itself indicate that some portion of Survey No. 75 and Hissa No.2 was sold to various persons. The applicant is relying upon the agreement purportedly executed with owners of the property. On perusal of the said document it appears that the document is notarised and its unregistered. There is nothing on record to indicate that sellers have received any consideration or the original owners have received any consideration, although it is so mentioned in the said

agreement. Apart from the statement of various witnesses pointed out by the learned prosecutor it shows that amount was collected from various persons towards sale of property. The transactions were executed in 2014. There is nothing on record to show that applicant had insisted for payment of the balance consideration of amount and on account of that possession was not given. The transaction were executed during the said period and although there is lapse of time. The possession was not given to them and it is contended by the applicant that for non-payment of balance consideration, the same was not executed. According to the prosecution the amount of Rs.97 Lakhs was collected by the applicant from various persons. The statement of the witnesses were recorded by the Investigating Officer also shows that the applicant has induced them with part amount which was not returned to them. It is also noted that applicant is having criminal antecedents. Taking into consideration the totality of the circumstances, no case for grant of anticipatory bail is made out. Hence, application is stands rejected.

(PRAKASH D. NAIK, J.)