

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.139 OF 2019

Rashid Munir Shaikh	]	... Applicant
Versus		
The State of Maharashtra	]	... Respondent

Mr. Manoj Harit i/b Manoj Harti And Company, Advocate for the Applicant.

Ms. S.S. Kaushik, APP for the State/Respondent.

API M.S. Bembade attached to Vijapur Naka Police Station, Solapur City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 20th AUGUST, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.785/2018 registered with Vijapur Naka Police Station, Solapur City u/sec. 420, 465, 468, 471 of I.P.C.

2. The FIR is lodged on 07/12/2018 by one Chhaya Pille. The informant is the Chairman of M/s. Shree Samarth (Soregaon) Sahakari Griha Nirman Sanstha, Solapur. It is the co-operative society registered on 24/07/2003. The society has 35 acres and 18 gunthas of land at Gat No.25, Old Survey No.18. The society had 269 members and 266 plots. The present applicant became member of the society

on 27/09/2005. On 21/07/2007, he paid Rs.50,000/- for purchasing one plot. The balance amount was not paid by him and therefore, a particular plot was not allotted to him. In the meeting of the society, the members and the society decided to increase the price of each plot. In the year 2011, it was decided through Resolution that, the members who did not made the balance payment till 31/03/2001, the plot would be sold at Rs.90/- per square feet. Further by another resolution they decided that, after 31/12/2013 the price would be Rs.325/- per square feet. The applicant did not make the balance payment and therefore, he was issued a notice dated 20/12/2013 pointing out that, he had not made the balance payment and he was given some time to made that payment. It was also mentioned that if he did not make the balance payment it would be assumed that, he did not want the plot and his claim as well as his membership would be cancelled. It is alleged in the FIR that, the applicant prepared a forged letter pad and prepared a letter dated 24/02/2007 on a forged letter pad. It was containing forged signature and seal of the society. It was mentioned in that letter that, the applicant was entitled to one plot and that he had paid Rs.50,000/- for that purpose. He was directed to make the payment of balance amount of Rs.3,50,000/-. The same

letter was sent by the applicant to the Deputy Registrar Co-operative Society and to the society itself for claiming his plot. The informant therefore has alleged that, the applicant had used the forged document to stake claim on the plot in his claim. On this basis, the FIR is lodged.

3. Heard Mr. Manoj Harit, Ld. Counsel for the Applicant and Ms.S.S. Kaushik, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicant submitted that, the payment of Rs.50,000/- in the year 2007 is not disputed. The letters which are alleged to be forged do not give any further right. They show that the applicant had made payment of Rs.50,000/-. He therefore submitted that, the applicant would not have used these letters. He submitted that, the applicant has initiated the proceedings before the Joint Registrar of Co-operative Society for getting the plot allotted in his name. He submitted that, the dispute is of civil nature and there is no criminal offence committed by the present applicant.

5. Ld. APP resisted these submissions. She submitted that, the letters purportedly used by the present applicant were sent for hand

writing expert's opinion and the hand writing expert has opined that, it was not possible to state firmly whether the Secretary of the society has signed those two letters. Thus, at this stage, there is no firm opinion expressed by the hand writing expert to support the claim of the informant that the letter was not signed by the then Secretary of the society.

6. I have considered these submissions. As pointed out by Ld. APP as on today the hand writing expert's opinion does not support the case of the informant. Though, the then Secretary of the society has denied his signature on those letters, the contents of these letters do not create any further rights in favour of the applicant. It is an admitted position that, the applicant had paid Rs.50,000/- in the year 2007. Though the applicant had submitted that, the payment was made in July 2007 and the letter shows that it was made in February 2007. However, that does not change the complexion of the case because the dispute arose much later. The applicant as on today is not allotted any plot. None of the authorities had relied on these documents in support of the claim of the applicant and these letters have not become the subject matter based on which any benefit was

given to the present applicant. The conduct of the applicant also does not show that, he had committed any offence because the copy of the same allegedly forged letter was submitted to the society. If it was a forged letter, then the applicant need not have given the copy to the society. The dispute is pending before the Joint Registrar of Co-operative Society who will take decision on the basis of the claims of the parties. At this stage, these letters which are alleged to be forged by the present applicant appear to be innocuous documents. Hence, the applicant's custodial interrogation to find out creation of such documents will not serve any practical purpose. In this view of the matter, the applicant deserves to be protected by the anticipatory bail, though the applicant will have to co-operate with the investigation. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.785/2018 registered with Vijapur Naka Police Station, Solapur City, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

2. The applicant shall attend the concerned police station from 27/08/2019 to 31/08/2019 in between 1.00 p.m. to 5.00 p.m. and shall co-operate with the investigation.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)