

SAS

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.424 OF 2018

Sanjay Ramchandra Ghadage	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

ANTICIPATORY BAIL APPLICATION NO.551 OF 2018

Priti Nandraj Chavan	..Applicant.
V/s.	
The State of Maharashtra	..Respondent.

Mr.Vikas Kolekar for the applicant in both the matters.

Mr.S.S.Hulke, APP for the respondent-State.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 29, 2019

P.C.:-

Heard learned counsel for the applicants and learned APP for the State.

2. In crime No.48/2018 for offence punishable under sections 419, 420, 464, 465, 46 and 468 read with 34 of the Indian Penal Code registered with Islampur police station, Sangli, the applicants are seeking pre-arrest bail.

3. Both these applicants are purchasers of land Gut No.606

admeasuring 3 hectres and 25 Aar from Mauze Peth, Taluka Walwa, District Sangli by joint registered sale deed executed and registered (No.3999/2017) on November 27, 2017.

4. The prosecution case is, the applicants have impersonated the original owner Shrikant Krishna Dange by forging his Aadhar Card and Pan Card with the aid of co-accused and got the sale deed executed without parting with lawful and valid consideration.

5. Learned counsel for the applicants so as to make out a case for grant of pre-arrest bail would urge that the applicants have conducted themselves in accordance with provisions of Contract Act and had also furnished all lawfully required details viz. issuance of public notice, search report before the purchase of the property in question. According to him, there was no objection to the public notice and search report received was in order, which speaks of land being standing in the name of the complainant Shrikant Krishna Dange.

6. Learned counsel would then urge that the applicants are the victims of fraud played by co-accused. According to the applicants, they had already parted with consideration for the aforesaid land in the account of the original owner. Learned counsel

then would urge that apart from delay of more than two months in lodging the F.I.R., Civil Suit is pending between the complainant and the applicants in relation to title of the land in question. He submits that offence is based on the documentary evidence and as such, custodial interrogation of the applicants is not warranted.

7. Learned APP for the investigating agency would urge that the documents in question i.e. the sale deed speaks of total consideration of Rs.74,80,000/- however but for honouring the payment by one cheque for an amount of Rs.16,00,000/- out of total five cheques, the balance consideration of Rs.48 lakhs is claimed to have been paid in cash. Learned APP would urge that even assuming the case of the applicants to be correct, the consideration of Rs.16 lakhs is still remained unpaid. It is also claimed that the basis of payment of Rs.48 lakhs as has been claimed is not justified during the investigation for want of adequate evidence. The applicants who are direct beneficiaries having purchased the land in question by impersonating the original owner does not deserved any protection from this Court. As such, prayer for rejection is made.

8. Considered rival submission.

9. Also perused the account extracts of the applicant Priti.

10. The Sessions Court in detail has dealt with the mode and

manner in which the applicants have conspired in the commission of offence in question. Perusal of the account extracts of the applicant Priti so also other documents cannot justify the alleged payment of cash amount of Rs.48 lakhs against the cheques which are referred in the sale deed in question. Apart from above, fact remains that the applicant Sanjay also appears to be beneficiary of the sale deed in question having been shown to have purchased the part of the land by virtue of the disputed sale deed. The said applicant is also unable to justify the alleged payment of Rs.48 lakhs in cash against the cheques issued and non payment of the amount which is to be covered by the last cheque. The involvement of both the applicants, being direct beneficiaries in the offence in question, can be inferred based on the very material available on record.

11. That being so, no case for grant of pre-arrest bail is made out. Both the applications as such fail and are rejected.

(NITIN W. SAMBRE, J.)