

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

ANTICIPATORY BAIL APPLICATION NO. 241 OF 2019

Imran Jahangir Rais ... Applicant

Vs.

The State of Maharashtra ... Respondent

CRIMINAL APPLICATION NO. 148 OF 2019

IN

ANTICIPATORY BAIL APPLICATION NO. 241 OF 2019

Hari Kishanchand Jaidhara ... Intervenor

In the matter between

Imran Jahangir Rais ... Applicant

Vs.

The State of Maharashtra ... Respondent

...

Mrs. Prabha Badadare I/by Raj Legal for the applicant.

Mrs. G.P. Mulekar, APP for the Respondent-State.

Mr. Gautam Jain, for the intervenor.

Mr. B.K.Sonawane, ASI, Shantinagar Police Station

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CORAM : PRAKASH D. NAIK, J.

DATE : 30th JANUARY, 2019.

P.C.

1. This is an application for anticipatory bail in connection with CR No. 377 of 2018 registered with Shanti Nagar Police Station for the offences punishable under Sections 420, 504, 506 and 323 of Indian Penal Code. The applicant had preferred an application before the Sessions Court which has been rejected by order dated 4th January, 2019.

2. The case of the prosecution is that in December, 2017, the complainant had visited Bhiwandi alongwith Govind Sarogi who had meeting with the Estate Agent. At that time, the complainant was informed that about 10.9 acres of land belonging to the applicant and his family members are available for sale. In January, 2018 another meeting was scheduled and discussion was ensued between the parties. Applicants received the part amount of Rs.25,00,000/- towards sale of subject land and hence two cheques of Rs.11,00,000/- and Rs.14,00,000/- were handed over by the complainant to the applicant. The receipt was also issued. In March, 2018 joint meeting was conducted and the complainant was informed that paper notice is required to be given. Complainant was induced to pay another Rs.50,00,000/-. Public notice was published on 3rd May, 2018 and 23rd May, 2018 in the news paper. Pursuant to said public notice three objections were received. Complainant and the other family members have filed a suit in respect of said property which is pending in the competent Court and there is interim order of status-quo. Learned counsel for the applicant submits that in accordance with Bayana Patra dated 22nd February, 2018, the complainant was supposed to make the balance payment. The complainant has only paid of Rs.

75,00,000/- and 25% as agreed was not paid by him. The complainant was aware that the property belongs to the applicant and other family members. This fact was not suppressed from him. It is further submitted that contents of Bayana Patra also indicate that the schedule in respect of the property was to be acquired by the applicant. It is contended that unless the applicant receives the balance amount as stipulated in Bayana Patra there was no occasion to satisfy the interest of other persons having share in the property. It is further submitted that there was no intention to deceive the complainant. It is only on account of non-payment of balance amount the deal could not be executed.

3. Learned APP submitted that the applicant had no intention to execute the deal and had deceived the complainant to part with the huge amount. During the course of interrogation, the applicant had agreed to pay the amount to the complainant but did not fulfill the said promises. It is further submitted that applicant has no right to execute the said document and he was aware that the deal could not be finalized without the consent of the other family members.

4. Learned intervenor reiterated the submission of learned APP.

It is further contended that other family members have raised the objection. Suit has been filed by other persons having share in the property and the same is pending in the respective court.

5. I have perused the documents on record. Bayana Patra was executed on 22nd February, 2018 by the applicant. It appears that he had signed it on behalf of himself and others. It is pertinent to note that the suit in respect of the said property was filed by the other persons having share in the property. Prior to execution of Bayana Patra, applicant was aware about the filing of said suit as applicant was defendant in the said suit. Other persons holding share in the property have raised objections. The applicant was therefore aware that he would not be in a position to execute the said deal without the consent of the other persons having share in the property and induced the complainant to part with the amount.

6. Taking into consideration of the aforesaid circumstances, no case for grant of anticipatory bail is made out. Hence, application deserves to be rejected. Criminal Application No. 148 of 2019 stands disposed off.

(PRAKASH D. NAIK, J.)