

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 444 OF 2019**

VANDESH RAMAKANT PURAV

.....APPLICANT

Vs.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Mr. S.P. Kadam I/by P.P. Raul for the Applicant.

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

Mr. Dipak Girkar, API Tulinj Police Station.

CORAM : A. S. GADKARI, J.**DATE : 4th APRIL, 2019.****P.C.:-**

The Applicant is apprehending arrest in CR No. 722 of 2018 dated 6th July, 2018 registered with Tulinj Police Station, District Palghar under Sections 420, 465, 467, 468, 471, 474 read with Section 34 of the Indian Penal Code and under Sections 3 and 4 of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, (the MOFA, Act).

2 Heard the learned counsel for the Applicant and the learned APP. Perused the record annexed to the Application and the record of investigation.

3 The first information report is lodged by Mrs. Sandhya

Patil, in-charge Assistant Commissioner, Vasai-Virar Municipal Corporation.

The prosecution case in brief is that, the Applicant in connivance with Shri. Rakesh Wadhwan, the owner of Survey No. 242 Hissa No.1 lying and situate at village Aachole and other co-accused, illegally constructed a building by name '*Aastha Sahawas*' and sold the shop galas/premises constructed therein to various purchasers and while executing the agreements, they used a bogus construction permission allegedly issued by Vasai-Virar Municipal Corporation bearing No. VP-0743.

4 A bare perusal of record would indicate that, on 20th December, 2013 a crime bearing No. I-790 of 2013 under Sections 420, 465, 468, 471 read with Section 34 of the Indian Penal Code was registered by Dr. Anil Yadav with Nalasopara Police Station alleging that, on Survey No. 242 lying and situate at village Aachole, the Applicant along with other co-accused by manufacturing and/or preparing bogus N.A. permission and the permission for construction allegedly granted by Vasai-Virar Municipal Corporation, constructed a building and sold the residential tenements to the respective purchasers. In the said crime the Applicant was thoroughly

interrogated by the police. The police have submitted charge sheet in the said crime on 11th July, 2014.

The record further indicates that, on 4th October, 2014, a second crime was registered against the Applicant bearing CR No. II-44 of 2014 with the same Police Station i.e. Nalasopara Police Station by Mr. Rajesh Gharat, the then in-charge Assistant Commissioner, Vasai-Virar Municipal Corporation. It is alleged therein that, the Applicant without taking permission from the Vasai-Virar Municipal Corporation or from any other Competent Authority, constructed a building of ground plus 5 stories on Survey No. 242 Hissa No.1 lying and situate at Village Achole. In the said crime, the Applicant was arrested and after thorough investigation the police have submitted charge sheet on 13th January, 2017.

In the premise, the present crime is registered by the in-charge Assistant Commissioner Vasai-Virar Municipal Corporation as stated here-in-above.

5 A comparison of all the three first information reports would clearly indicate that, the same are lodged pertaining to the same immovable property i.e. Survey No. 242, Hissa No.1 lying and situate at Village Achole, Nalasopara, which falls within the

jurisdiction of Vasai-Virar Municipal Corporation. It appears that, the police machinery is lodging successive crimes against the Applicant on the basis of separate complaints filed by different Government Officers pertaining to the same property and the same alleged bogus Commencement Certificate/Construction permission and/or any other permission and for the same building. i.e. on the basis of same cause of action.

It is surprising to note that, when the Applicant was subjected to interrogation in the first crime i.e. in C.R. No. I-790 of 2013 with similar rather same set of allegations and the police have conducted thorough investigation in that behalf, how subsequent crimes for same cause of action pertaining to the same piece of land and documents are being registered by the police. It, *prima facie*, appears that, it is only because the Government Officers for the reasons best known to them, are lodging successive crimes for same cause of action, the Investigating Agency without verifying the bonafide in lodgment of the crime, are registering it against the Applicant.

6 The documents on record clearly indicate that, the alleged forged and/or fabricated documents mentioned in the first crime are

again reflected in the second and now in the third crime lodged by the informants.

Prima facie, it appears that, the informant is being harassed for some reasons which are not coming forward and/or the investigating agency is not able to point out the same. This observation is made in context with the report submitted by the police in a Complaint filed by the Applicant herein.

7 The record indicates that, the Applicant had lodged a private Complaint bearing No. 94 of 2015, after being released on bail in second crime i.e. CR No. II-44 of 2014 in the Court of Judicial Magistrate, First Class, Vasai against three accused persons mentioned therein. The learned Magistrate has passed an Order under Section 202 of the Code of Criminal Procedure, 1973 directing Tulinj Police Station to conduct an inquiry under Section 202 of the Code of Criminal Procedure in that behalf. The police had submitted a report dated 18th April, 2017 wherein, it is mentioned that the construction permission pertaining to the said piece of land is issued in the name of Shri. R.K. Wadhwan and the Application in that behalf was made by the Architect namely M/s. Shah Gattani. The record further indicates that, Mr. R.K. Wadhwan is the lawful owner of the said plot of land

i.e. Survey No. 242, Hissa No. 1 lying and situate at Village Achole.

8 In view of the above and after perusing the entire record , this Court is of the opinion that, the custodial interrogation of the Applicant for further investigation of the present crime is not necessary and the Applicant can be protected by pre-arrest bail.

Hence, the following order-

- a) In the event of arrest in CR No. 722 of 2018 dated 6th July, 2018 registered with Tulinj Police Station, District Palghar, the Applicant shall be released on bail on his furnishing PR bond of Rs.20,000/- with one or two solvent local sureties in the like amount.
- b) The Applicant shall not tamper with the evidence and/or pressurize the prosecution witnesses.

9 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)