

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.584 OF 2019

Vishwanath Eknath Tapkir	]	... Applicant
Versus		
The State of Maharashtra	]	... Respondent

WITH

CRIMINAL APPLICATION NO. 620 OF 2019
IN
ANTICIPATORY BAIL APPLICATION NO.584 OF 2019

Suresh Chabanrao Dhamale	]	...Intervener
		(Org. Complainant)

IN THE MATTER BETWEEN

Vishwanath Eknath Tapkir	]	... Applicant
Versus		
The State of Maharashtra	]	... Respondent

Mr. Sachin Deokar, Advocate for the Applicant.
 Mr. Prashant Jadhav, APP for the State/Respondent.
 Mr.Kalpesh Patil, Advocate for the Intervener in Cri. Appln.
 No.620/2019.
 PSI A.L.Ghodke attached to Kothrud Police Station, Pune City present.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 5th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with

C.R. No.424/2018 registered with Kothrud Police Station, Pune u/sec. 406, 420 of I.P.C.

2. The offence is registered on 20/12/2018 pursuant to the FIR lodged by one Suresh Dhamale. He has mentioned in his FIR that he was knowing the present applicant since the year 1999. He was knowing that the present applicant was in the business of real estate. The informant was also in the same business. In February 2014, the applicant approached him and told him that in Taluka Khandala, District Satara there was fast developing industrialisation and buying and selling of land would earn handsome profits. The applicant allegedly informed that the lands were sold at the rate of Rs.20 to 22 Lakhs per acre. He further represented that he was knowing the local people who were selling the land and that they would sell such lands to the applicant for much lesser price than to a stranger like the first informant. The first informant was shown Gat No.147 and 148 in the area. The first informant showed interest in purchasing these lands. The first informant wanted to purchase four acres of land. For the said transaction, according to the first informant, he paid Rs.25 Lakhs and Rs.10 Lakhs in cash on two different occasions. He further paid

Rs.74 Lakhs on 14/02/2014 through cheque. The cheque was deposited in the applicant's account. Thereafter, the first informant came to know that the applicant had purchased some land in that area. However, it was not sold further to the first informant as was decided. The FIR further mentions that the applicant had given two cheques amounting to Rs.1,27,00,000/-, but they were not honoured. It is further mentioned by the first informant that in November 2017, the first informant as well as the applicant tried to settle their issues by entering into a Memorandum of Understanding dated 15/11/2017. It was signed by two independent witnesses Deven Shah and Anupam Choudhari. One of the witnesses i.e. Deven Shah was murdered and thereafter the applicant did not honour his commitment which he had made in the Memorandum of Understanding. He had not repaid the amount and he had not transferred any land in the name of the first informant. Based on these allegations, the FIR was lodged.

3. Heard Mr. Sachin Deokar, Ld. Counsel for the Applicant, Mr.Prashant Jadhav, Ld. APP for the State/Respondent and Mr.Kalpesh Patil, Ld. Counsel for the Intervener.

4. Mr. Deokar, Ld. Counsel for the applicant submitted that the dispute between the first informant and the applicant is purely of civil nature. The first informant has filed a Special Civil Suit No.131/2018 before the Civil Judge, Senior Division at Satara for specific performance of the Memorandum of Understanding dated 15/11/2017. The first informant had also asked for payment of Rs.74,00,000/- in the alternative. He further submitted that the applicant had already deposited Rs.20 Lakhs in this court to show his bonafide.

5. Mr. Deokar pointed out that the applicant had filed written statement in that suit and thereafter this FIR was lodged to pressurise the applicant.

6. Mr. Kalpesh Patil, Ld. Counsel for the first informant submitted that, from the allegations in the FIR, the inducement on the part of the applicant from the inception is made out and therefore, custodial interrogation of the applicant is necessary to trace the amount given by the first informant.

7. Ld. APP supported the contention of Mr. Kalpesh Patil and in addition he pointed out the statement of one Anupam Choudhari who was witness to the Memorandum of Understanding, which supports the case of the first informant.

8. I have considered the submissions advanced by Ld. Counsel for the parties. It is obvious that the first informant has lodged this FIR after the applicant had filed his written statement in the civil suit. The civil suit is for specific performance of the Memorandum of Understanding. The plaint of the civil suit does not mention that the applicant had received any money in cash. The plaint is specific about receipt of money through cheque. The dispute ultimately will be decided by the civil court. Considering the fact that, the FIR is lodged much belatedly after the written statement was filed in the civil suit, it is more than apparent that the dispute between the parties is of civil nature. The first informant has resorted to his legal remedy by filing the civil suit. Therefore, custodial interrogation of the present applicant is not necessary. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R. No.424/2018 registered with Kothrud Police Station, Pune, the Applicant 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. Application stands disposed of accordingly.
3. Intervention Application also stands disposed of accordingly.

(SARANG V. KOTWAL, J.)