

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.921 OF 2019

Nathu Genu Mirkute] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Satyavrat Joshi a/w Mr. Nitesh Mohite, Advocate for the Applicant.

Mr. S.H. Yadav, APP for the State/Respondent.

API P.S. Deokar attached to Khadki Police Station 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.69/2018 registered with Khadki Police Station, Pune City u/sec.471, 468, 420 r/w 34 of I.P.C.

2. The FIR is lodged by one Ramesh Dokh. He has stated in his FIR that, he has some ancestral land. One piece of land is at Jamgaon bearing Gat No.298 admeasuring 43 R. The other piece was at Gat No.461 at Jamgaon. The present FIR is in respect of Gat No.461. He has stated in his FIR that, in the year 2012, he received a notice from

the Sub Division Office, Maval Sub Division, Pune in respect of a proposed entry for entering names of new owners in respect of Gat No.461. The first informant made further inquiries and he came to know that, the said land bearing Gat No.461 was sold to Nitin Thakur, Seema Thakur, Ashish Thakur and Monish Thakur by one Yashwant Malusare and the present applicant. Yashwant Malusare and the present applicant were shown as a confirming parties. Sellers were shown as the informant Ramesh Dokh and his family members. On further inquiries he found that, the Sale Deed was executed on the basis of Power of Attorney purportedly executed by the first informant Ramesh Dokh and his family members. The informant was sure that, he had not signed any such documents. He verified this and he came to know that one Shankar Thombare was made to stand in his place and he made signature on that document. He therefore alleged that, the Power of Attorney was a forged document and the Sale Deed was executed by the present applicant and Yashwant Malusare. On this basis, the FIR is lodged.

3. Heard Mr. Satyavrat Joshi, Ld. Counsel for the Applicant and Mr. S.H. Yadav, Ld. APP for the State/Respondent.

4. Ld. Counsel for the applicant submitted that, the first informant Ramesh Dokh had filed a private complaint before the Court of J.M.F.C. at Paud. The Ld. J.M.F.C. had refused to pass any order directing the investigation u/sec. 156 (3) of Cr. P.C. The said prayer was specifically rejected vide order dtd. 20/07/2018 passed below Exh.1 in Criminal M.A. No.1289/2016 before the J.M.F.C. Paud. The matter was kept for verification. Prior to rejection of this prayer for investigation u/sec. 156 (3) of Cr. P.C., the informant had already approached the police and the present FIR vide C.R. No.69/2018 was registered at Khadki Police Station. This fact was not brought to the notice of the Ld. J.M.F.C. Thereafter, the matter was kept for verification. The verification was recorded on 28/09/2018 and even on that occasion, the Court was not told about pendency of the FIR as well as the investigation. He therefore submitted that, the first informant's conduct was dishonest. He further submitted that, the co-accused of the present applicant Yashwant Malusare had lodged an FIR vide C.R. No. 15/2013 at Paud Police Station u/sec. 468, 471, 420 of I.P.C. etc. In that FIR, Yashwant Malusare had alleged that, the executant of the Power of Attorney is shown as Dokh family and instead of Ramesh Dokh some imposter was made to stand and he had

signed that documents. This fact came to the knowledge of Yashwant Malusare. He and the present applicant had entered into the transaction with aforesaid mentioned Nitin Thakur and others. Thus, according to Yashwant Malusare, he and consequently the present applicant were cheated by the first informant Ramesh Dokh and his family. On that basis, the FIR was lodged vide C.R. No.15/2013 at Paud Police Station. He therefore submitted that, the present FIR is filed by the informant to falsely implicate the present applicant.

5. Ld. APP submitted that, the offence of forgery and impersonation is clearly made out. He submitted that, at this stage there is no dispute about the fact that, the Power of Attorney is not signed by the informant Ramesh Dokh. His signature is obviously forged and a third person was made to stand in his place. He therefore submitted that, to find out the exact nature of forgery and conspiracy custodial interrogation of the applicant is necessary.

6. I have considered these submissions. The co-accused Yashwant Malusare has already filed his FIR in the year 2013 itself. After about 3 years, the first informant in this case Ramesh Dokh had approached

the Ld. Magistrate's Court. The first informant and Yashwant Malusare had already entered into further transaction in respect of the same land with Nitin Thakur and others vide registered Sale Deed executed in April 2007. The conduct of the present applicant and Yashwant Malusare shows that, they were not aware of the identity of the co-owners of the land bearing Gat No.461 at Jamgaon. The first informant is suppressing his registration of FIR when the matter was taken up by the Ld. Magistrate of Paud. The conduct of the first informant is not honest. On the other hand, the case of the applicant and the co-accused Yashwant Malusare appears more probable as they had already approached the police in the year 2013 itself and had pointed out the relevant facts.

7. Mr. Joshi, Ld. Counsel for the applicant has rightly submitted that, because of the escalation in price the complaint is filed against the present applicant belatedly. In view of these submissions, custodial interrogation of the present applicant does not appear to be justifiable. Hence, the applicant deserves protection of anticipatory bail. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.69/2018 registered with Khadki Police Station, Pune 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. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)