IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1225 OF 2019

Samrat Ramchandra Patil & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

WITH

CRIMINAL APPLICATION NO.881 OF 2019

IN

ANTICIPATORY BAIL APPLICATION NO.1225 OF 2019

M/s. Home Builders] ...Intervener

IN THE MATTER OF

Samrat Ramchandra Patil & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

WITH

CRIMINAL APPLICATION NO.893 OF 2019

IN

ANTICIPATORY BAIL APPLICATION NO.1225 OF 2019

M/s. Krishna Estates] ...Intervener

IN THE MATTER BETWEEN

Samrat Ramchandra Patil & Anr.] … Applicants

Versus

The State of Maharashtra] … Respondent

Mr. Bhujang More, Advocate for the Applicants.
Mr. Rajan Salvi, APP for the State/Respondent.
Mr. Samrat Thakkar i/b Mr. Jaideep Thakkar, Advocate for the Intervener in Cri. Appln. No.881/2019 and Cri. Appln. No.893/2019.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 26 JUNE, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with C.R. No.92/2019 registered with CBD Belapur Police Station, Navi Mumbai u/sec. 420, 465, 467, 468, 471 r/w 34 of I.P.C.

2. The FIR is lodged by one Sunil Sharkar who was working as a Clerk with CIDCO. It is mentioned in the FIR that he was entrusted with the work of preparing files in respect of the acquisition of plots and in respect of distribution of the developed plots to the original land owners under the 12.50% scheme. The present FIR pertains to the File No.183 in respect of Plot Nos.2 and 2 A at Village Karave. The allegations were in respect of the dispute regarding ownership and about being beneficiaries under the 12.50% scheme. It is

mentioned in the FIR that the Applicant No.2 had initially given Release Deed in respect of her rights in favour of her mother. The deed was notarized on 10/03/2008. The said Release Deed was submitted in the office of CIDCO on 07/05/2008. After that CIDCO had entered into Agreement for Lease with one Hirabai Halsikar and others. On the same day, tripartite agreement was executed. Because of the Release Deed, the name of the Applicant No.2 was not included in the list in respect of that plot. It is mentioned in the FIR that the Applicant No.2 gave another letter mentioning by further documents executed on 30/07/2009, she had revoked the Release Deed and was claiming rights on the said plot. Since that revocation deed was subsequently tendered and since the transaction was already completed, the subsequent letter of Applicant No.2 was not acted upon. Thereafter, on 30/11/2018, Applicant No.2 tendered a letter and a photocopy of an order purportedly issued by the Principal Secretary, Urban Development Department, Government of Maharashtra. The officers of CIDCO got suspicious and entered into correspondence with the Government of Maharashtra authorities. It was revealed that the said order and the letter head was forged. It bore the signature of the Hon'ble Chief Minister with the official seal.

The entire document was a forged document. After such offence was revealed, the FIR was lodged by the first informant on 10/05/2019.

3. The Applicant No.1 is the son of the Applicant No.2.

4. Heard Mr. Bhujang More, Ld. Counsel for the Applicants and Mr. Rajan Salvi, APP for the State/Respondent.

5. Ld. Counsel for the applicants submitted that the applicants themselves were the victims of the fraud committed by one Rajesh Shirke and one Jasmine Tandel. He invited my attention to a letter dated 23/01/2019 addressed by the Applicant No.1 to the Manager, CIDCO. It was mentioned in that letter that the applicants came in contact with one Jasmine Tandel and Rajesh Shirke who claimed to be in contact with important officers in the Mantralaya. It is further mentioned in the letter that since the applicants could not get justice from the CIDCO officers, they decided to get their work done through these two persons and for that they were willing to spend amount to the tune of Rs.2 Lakhs. The tenor of the letter shows that the applicants tried to get their work done illegally through these two persons.

6. Ld. Counsel for the applicants also pointed out that the applicants had approached to Marine Drive Police Station with the grievance that they were cheated by these two persons namely Rajesh Shirke and Jasmine Tandel. He therefore submitted that the applicants themselves were the victims and they could not be arraigned as accused in the present crime. He also pointed out that the aforesaid accused Jasmine Tandel was arrested and was released on bail and nothing fruitful came out of his interrogation. He therefore, submitted that the custodial interrogation of the present applicants is not necessary. He submitted that the forgery was committed by Rajesh Shirke and Jasmine Tandel and the present applicants cannot be said to have committed any offence of forgery. In support of his contention, he relied on the judgment of the Hon'ble Supreme Court in **Sheila Sebastian Vs. R. Jawaharaj And Another reported in (2018) 7 Supreme Court Cases 581**. He submitted that there is nothing to show that the present applicants had actually committed any forgery. Therefore, they cannot held responsible for commission of crime u/sec.465, 467 and 468 of I.P.C.

7. As against this submissions, Ld. APP submitted that the offence

is serious. The seal of the Chief Minister is forged. The orders are forged and the applicants are trying to take advantage of that letter for their own purpose. The conspiracy is widely spread and therefore, custodial interrogation of the applicants is necessary.

8. Having considering the submissions, it is clear that the applicants themselves had not acted in bonafide manner. The applicants had approached Rajesh Shirke and Jasmine Tandel. The letter annexed to this application itself shows that the applicants were looking to resolve their issue through illegal means to procure order from the Mantralaya, that itself is a serious offence. The copy of the letter was admitted by the applicants. Therefore, at this stage, neither of the applicants can escape from the allegations of commission of the present offence. The submission that the actual forgery was not committed by any of the applicants cannot be accepted at this stage as the offence is committed by all the accused in collusion with each other. Considering the serious allegations and considering the fact that the exact manner in which the documents was forged is still not clear before the investigating agency and since the applicants themselves are the beneficiaries in the entire crime, it is obvious that

the custodial interrogation is absolutely necessary. In this view of the matter, no case for anticipatory bail is made out. Hence, the following order.

ORDER

1. Application is rejected and stands disposed of accordingly.

2. Intervention Applications also stands disposed of.

(SARANG V. KOTWAL, J.)

Purti Parab