

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

ANTICIPATORY BAIL APPLICATION NO.1438 OF 2019

Suresh Thakur Pandit & Anr.

.... Applicants

versus

The State of Maharashtra

.... Respondent

Mr. Kedar Patil I/b. Yogesh Gangan, Advocate for Applicant.

Ms. S. S. Kaushik, APP for the State/Respondent.

Mr. Arun Manik Padhav, API Kharghar Police Station present.

CORAM : SARANG V. KOTWAL, J.

DATE : 5th JULY, 2019

P.C. :

1. The applicants are seeking anticipatory bail in connection with C.R. No.225/2019 registered with Kharghar Police Station, Navi Mumbai under Section 420 r/w. 34 of IPC.

2. The offence is registered on 8/6/2019. The FIR is lodged by one Virendrakumar Arora. In his FIR, he has stated that one Thakur Pandit who was the father of the present applicant was owning various lands at village Paghote, Taluka Uran, District Raigad. Said Thakur Pandit alongwith present applicant No.1

approached him and represented to him that CIDCO had acquired 1400 square meters of their land and as per their scheme of compensation they would get 12.5% of developed land which they wanted to transfer for consideration. The first informant believed them. It is mentioned in the FIR that, since Thakur was old the entire negotiations was done by the applicant No.1. The first informant had decided to buy their rights for Rs.77 Lakhs. It is further mentioned in the FIR that the matter travelled to Court at Panvel and in the Lok-Adalat one consent decree was passed based on the agreement between the first informant and Thakur Pandit. To that agreement dated 30/8/2011, both the applicants have put their signatures as confirming parties as they were the legal heirs of Thakur Pandit and in future they would have acquired rights after his death. It is the case of the first informant that from time to time he has paid Rs.30,40,000/- to the accused between year 2011 and 2012. Since for many years he neither got the land nor got any refund of his amount, he made inquiries and he came to know that Thakur Pandit had sold his land which he was to get under the acquisition award in the year 2008 itself to one Vijay

Goyal. The first informant approached applicant No.1 and asked him to refund his amount and to cancel the transaction. However, nothing was done and therefore, he lodged the FIR.

3. Heard Mr. Kedar Patil, Ld. Counsel for the applicants and Ms. Kaushik, Ld. APP for the State.

4. Shri. Kedar Patil submitted that the first informant himself was a real estate agent operating in the same area and it cannot be said that he was not aware of the nature of transactions going on there. He submitted that in such transactions there are many complications and the persons who are dealing in the business of real estate in that area are well aware of the nature of transactions taking place there. Therefore, it is not believable that the first informant would have been cheated in the manner in which it is alleged in the FIR. He submitted that the applicants and their father are agriculturists and therefore they were not aware of the transaction and first informant himself has taken advantage of their innocence. He further submitted that, in any

case, there is a gross delay of more than eight years in lodging the FIR.

5. As against this, Ld. APP submitted that Thakur Pandit was used by applicant No.1. The original owner was an old person and he was taken every time to the office of first informant by the applicant No.1 when the transaction took place. The rights were already transferred to Vijay Goyal in the year 2008. Therefore, the intention of cheating was very clear from the very inception.

6. I have considered the submission advanced by both parties. The disturbing part of the entire allegation is that even the court proceedings in Lok-Adalat were misused by the parties. According to Shri. Patil, even the first informant was a party to the decree obtained in the Lok-Adalat. If that is so, it is for the investigating agency to investigate into the role played by the first informant in that behalf. However, the applicants cannot escape from the fact that some rights which they had acquired in respect of the land of Thakur Pandit were already transferred in the year

2008 to one Vijay Goyal. After that they entered into the transaction with the first informant in the year 2011 and that is also reflected in the agreement dated 30/8/2011. It bears signatures of both applicants. In this view of the matter, it is quite clear that the offence has definitely taken place.

7. The next question would arise as to whether the applicant No.2 has played any part and as to whether her custodial interrogation is necessary. Considering the entire allegations in the FIR, it is the case of the first informant that the applicant No.1 was negotiating in respect of the entire transaction. Though the signature of the applicant No.2 appears on the notarised agreement dated 30/8/2011, no other particular role is attributed to her. Therefore, her custodial interrogation is not necessary. Hence, the following order.

ORDER

1. The application for applicant No.1 Suresh Thakur Pandit is rejected.
2. In the event of her arrest in connection

with C.R. No.225/2019 registered with Kharghar Police Station, Navi Mumbai, the Applicant No.2 Rupali Thakur Pandit alias Rupali Sanjay Pardeshi is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)