

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

ANTICIPATORY BAIL APPLICATION NO.1582 OF 2019

Mangaldas Vitthalrao Bandal	 Applicant
versus	
The State of Maharashtra	 Respondent

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- Mr.Ashok Mundargi, Senior Advocate i/b. Omkar G.Nagwekar, Advocate for Applicant.
- Mr.S.H. Yadav, APP for the State/Respondent.
- PSI Mr.Ganesh Balnath Jagdale, Shirur Police Station, Pune, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 09th AUGUST, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.534/19 registered with Shirur Police Station, Pune, under sections 420, 406 r/w 34 of the Indian Penal Code.
2. The FIR is lodged on 08/07/2019 by one Asha Kisan Pacharne. She has stated in her FIR that she was residing at Tardobachi Wadi, Pune, with her mother. Her father Kisan Mahadu Pacharne is missing since year 1990. Kisan Mahadu Pacharne and his brother Shankar Mahadu Pacharne were

having ancestral land admeasuring 10 Acres at village Tardobachi Wadi, Gat No.712 and 713. Out of those 10 Acres, 5 Acres of land was in the name of informant's father. The other branch of the owners i.e. the heirs of Shankar Mahadu Pacharne, were creating trouble in peaceful enjoyment of the property by the informant's family. The informant and her sisters therefore decided to sale that piece of land. It is alleged that in January 2008 one Digambar Gulab Talkar told them that the present Applicant was willing to purchase their share of that land. The informant and others met the Applicant. It is her case in the FIR that, the Applicant agreed to purchase 5 Acres of the land, which was in their share in Gat No.712 and 713 for Rs.1 Crore. The Applicant gave Rs.50,000/- as earnest money and they entered into agreement for sale. In the meantime, the informants' cousins who were co-owners of other piece of land, filed civil suit and obtained stay. The FIR does not mention what happened to the civil suit. However it further mentioned that on 30/06/2008 the informant, her two sisters and mother were taken to Sub-Registrar's Office where the sale deed was executed

and registered. It is mentioned in the FIR that the Applicant had given Rs.10 lakhs within one month. He did not pay remaining Rs.90 lakhs. But the Applicant had given a cheque for Rs.12 lakhs which was not honoured. It is further mentioned that the sale deed was not executed in favour of the present Applicant, but was executed in favour of one Ramhari Shankar Daundkar. It is further alleged that the Applicant thereafter never paid the agreed balance amount of Rs.90 lakhs. The informant was deprived of her land and her balance amount. Therefore this FIR was lodged.

3. Heard learned Senior Counsel Mr.Ashok Mundargi, for the Applicant and learned APP Mr.S.H. Yadav for the State.
4. Mr.Mundargi relied on the sale deed executed on 30/06/2008 between Ramhari Daundkar as the purchaser and the first informant, her two sisters and mother as the sellers. It was mentioned in the sale deed that the consideration was fixed at Rs.12,25,000/- and the sellers i.e. the first informant and others had received the entire amount. The sale deed is signed

by all the parties in presence of two witnesses. The document is duly registered.

5. Mr.Mundargi thereafter relied on the mutation entry, wherein the names of the purchaser Ramhari Daundkar was entered in the revenue records on 01/07/2008. There is a specific noting in front of that entry that both the parties to the sale deed were present and were accepting their transaction. Mr.Mundargi further submitted that in the year 2010 Ramhari Daundkar had applied for permission to convert the same land into non-agricultural land. He had applied for such permission vide application dated 17/02/2010. He further relied on one more document dated 29/12/2009. It is a sale deed by which some portion of the same piece of land was sold by the same Ramhari Daundkar to the present first informant. The piece of land which was purchased by the first informant was admeasuring 0.05 R from the Gat No.712.

6. Mr.Mundargi therefore submitted that not on one occasion, but on three occasions, the first informant has

accepted to the transaction. He submitted that she had knowledge of all these documents. The first sale deed was a registered sale deed. On the second occasion, the parties were present before the Talathi when the mutation entry was effected and on third occasion through another sale deed informant herself had purchased small portion of land from the same Gat No.712. He submitted that the informant's case that she was cheated by the present Applicant is not correct. The Applicant was not a party to either of these documents.

7. As against these submissions Mr.Yadav, the learned APP submitted that the actual price of that land in the year 2008 was much higher. One of the witnesses has given his statement to that effect. He further submitted that the land admeasuring 0.05 R, which was purchased by the informant subsequently in the year 2009 from Ramhari Daundkar was still with in possession of the present Applicant, which shows that the real transaction was not reflected in the documents.

8. However, no such allegations as submitted by Mr.Yadav are made in the FIR. It is only after the interim order was passed in this application, a supplementary statement of the first informant is recorded where vague statements are made about possession of that small piece of land being with the Applicant.

9. I have considered all these submissions. After this Court had passed interim order making certain observations; to overcome those difficulties, the supplementary statement of the informant is recorded by the Investigating Officer. Even in the supplementary statement, no firm statement is made making any case against the present Applicant. No explanation is offered in respect of the documents which are referred to in the above discussion. The supplementary statement does not explain anything about the first sale deed, the mutation entry and the subsequent sale deed. Whereby the first informant had repurchased the small piece of the same land. Therefore at this stage, the contentions raised by Mr.Mundargi have remained unchallenged and undisputed.

10. Thus, the documents speak for themselves. The informant and her sisters as well as her mother had signed and executed the sale deed. The sale deed was registered before the Sub-Registrar. Mutation entry was effected in front of the revenue officers. On none of these occasions, the first informant has raised any objections. The first informant herself had repurchased small portion of that land in the year 2009. Even then there was nothing to show that the informant had raised any objection in any form. Thus suddenly after about more than 11 years the informant has lodged this FIR which appears to be a motivated exercise on her part.

11. Since there was no transaction between the Applicant and the first informant, therefore the dishonour of cheque of amount of Rs.12 lakhs has no importance in the context of the case. The first informant has not approached any civil Court to get the sale deed executed in 2008 to be declared as null and void. Thus, it appears that the FIR is lodged as pressurizing

tactics against the Applicant. In this view of the matter, the custodial interrogation of the Applicant is not justified. Therefore the Applicant has made out the case for grant of anticipatory bail. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.534/19 registered with Shirur Police Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)