

Anand

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

ANTICIPATORY BAIL APPLICATION NO. 1684 OF 2019

1. Mangesh Pandurang Tambade .Applicants
2. Yogesh Baliram Ghavat

Vs.

The State of Maharashtra .Respondent

Mr. P. A. Pol i/b. Pol Legal Juris, Advocate, for the Applicants
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 13.08.2019

P.C.

. Heard learned counsel for the Applicants.

2. By this Application, the Applicants seek pre-arrest bail in connection with C. R. No. 303 of 2019 registered with the Shahapur Police Station, Thane (Rural), for the alleged offences punishable under Sections 420, 467, 468, 469, 471 r/w 34 of the Indian Penal Code.

3. On 30.07.2019, interim protection was granted only to the Applicant No. 2 and not to the Applicant No. 1, in view of the statement made by the learned APP, that there is ample material to show the

complicity of the Applicant No. 1. Learned APP was granted time to file an Affidavit setting out the complicity of the Applicant No. 1. Accordingly, the learned APP has filed an Affidavit of Mr. Pawan J. Chaudhari, API, Shahapur Police Station, Thane (Rural).

4. Learned counsel for the Applicants submits that the Applicants are innocent and no offence as alleged is disclosed qua the Applicants. Learned counsel for the Applicants submits that although the application which is at page No. 35 of this Application is written by the Applicant, it is signed by co-accused – Prakash Haribhau Patel (owner of the land). He further submits that the Applicant does not deny writing the said application on behalf of co-accused – Patel nor does he deny submitting the said Application to the Grampanchayat for obtaining an ‘NOC’, with respect to the land in question. Learned counsel for the Applicants submits that a similar NOC has been issued with respect to another land by the same Sarpanch which is at page No. 33 of the Application.

5. Learned APP submits that there is ample material to show the complicity of the Applicant No. 1 and the same is set out in detail in the Affidavit. As far as the Applicant No. 2 is concerned, learned APP

states that the Applicant No. 2 was present with the Applicant No. 1, when the Applicant No. 1 told that he could bring another NOC.

6. Perused the papers. According to the Complainant – Bajirao Budhaji Khairnar, Gramsevak, Shahapur, the incident took place, during the period 06.09.2017 till 08.02.2019, when he was working as a Gramsevak at the Grampanchayat office, Kalamgaon, Taluka – Shahapur. He has stated that one Anjana Balu Kamadi was the Sarpanch of the said Grampanchayat. According to the Complainant, one Dinesh Ramchandra Vekhande had made an Application to the Grampanchayat under the RTI Act on 10.12.2018 and had requested for a copy of the NOC granted in respect of Gat Nos. 400 & 401 of village – Kalamgaon. According to the Complainant, when Dinesh Vekhande showed them an NOC in respect of the said landed property and enquired whether such an NOC was issued by their office, pursuant to Resolution No. 48 on 15.06.2018, the Complainant searched the Grampanchayat record and found that no such Resolution was passed on that day and that no such NOC was issued. The Complainant realizing that the NOC was a bogus and forged document, prepared by one Prakash Patel, the owner of the said two landed properties and that the NOC contained forged signatures of Sarpanch – Anjana Kamadi, filed

an FIR / Complaint. Mr. Vekhande was also informed that no such NOC was issued by their office. In the enquiry, conducted by the police, it was found that the NOC was given by Mangesh Tambade i. e. the Applicant No. 1 and Yogesh Ghavat i.e. the Applicant No. 2. On the basis of the complaint, the aforesaid C. R. was registered as against the aforesaid three persons. Investigation revealed that the Applicant has not only written the Application to the Grampanchayat for issuance of an NOC on behalf of co-accused – Patel, but had also forwarded a picture of the forged NOC on whatsapp to one Anil Patel, Advocate of Prakash Patel. The statement of the Advocate, Anil Patel clearly shows the complicity of the Applicant No.1. Advocate, Anil Patel in his statement has stated that the Applicant No. 1 had sent a photo of the NOC on his whatsapp number on 19.06.2018. He has also stated that the Applicant No. 1 had demanded a sum of Rs. 7,00,000/- which was subsequently reduced to Rs. 4,00,000/- for obtaining the said NOC. During investigation, it was revealed that no such Resolution was passed by the Grampanchayat in its meeting which was held and that even the NOC was fabricated and forged. The whatsapp message sent by the Applicant No. 1 to Advocate, Anil Patel below the photo of the NOC reads as under :-

“Sir, Jaisa Aya, Vaisa Apako forward Kiya Hai Aur Ek Baat Ye N.O.C. me Sabhi Partner Ka Naam Dala Hai Jo 7/12 Pe Likha Hai”

Advocate, Anil Patel has further stated that the Applicants had come to his office at Mumbai and given him the NOC bearing the signatures of the Sarpanch and the Gramsevak, pursuant to which Prakash Patel gave Rs. 4,00,000/- to the Applicant No. 1 in his presence. As far as the Applicant No. 2 is concerned, it appears that he contacted the Applicant No. 1 after the said NOC was given by the Applicant No. 1 to Advocate, Anil Patel and was with the Applicant No. 1 when Applicant No. 1 asked if another NOC was required.

7. Considering the material on record qua the Applicant No. 1, his custodial interrogation is necessary to find out if anybody from the Grampanchayat is also involved in the said offence. Hence, this is not a fit case to grant pre-arrest bail to the Applicant No. 1. Accordingly, the Applicant No. 1's Application is rejected.

8. As far as the Applicant No. 2 is concerned, his role is that he was present with the Applicant No. 1 after the forged NOC was

submitted to the concerned parties and when the Applicant No. 1 disclosed that he will give another NOC, if required.

9. Learned APP states that the Applicant No. 2 has reported to the investigating officer pursuant to the interim order dated 30.07.2019.

10. Considering the aforesaid, the Application is allowed qua the Applicant No. 2 and the Applicant No. 2's interim order dated 30.07.2019 is confirmed on the following terms & conditions :-

ORDER

(i) In the event of arrest, the Applicant No. 2 be enlarged on bail, on executing P. R. Bond in the sum of **Rs. 20,000/-** with one or two sureties in the like amount;

(ii) The Applicant No. 2 shall report to the investigating officer of the concerned police station **as & when called for** by the investigating officer;

(iii) The Applicant No. 2 shall co-operate with the investigation.

11. The Application is allowed in the aforesaid terms and is accordingly disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)