IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2379 OF 2018

Manoj Arjunsingh Thakur .... Applicant

versus

The State of Maharashtra .... Respondent

- Mr. Vinod D. Gangwal, Advocate for Applicant.
- Mr. S. H. Yadav, APP for the State/Respondent.
- Mr. G. V. Karad, API, Crime Branch Unit II, Navi Mumbai Police Station present.

CORAM : SARANG V. KOTWAL, J.
DATE : 9th JULY, 2019

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R. No.29/2018 registered at Kharghar Police Station under Section 465, 467, 468, 471, 484, 171, 420 r/w. 34 of IPC.

2. The FIR was lodged at Kharghar Police Station on 25/1/2018. The FIR is lodged by the officer attached to Crime Branch Shri. Pramod Patil. He has mentioned in his FIR that the police had received secret information that a person staying in a

building at Navi Mumbai was possessing forged documents and forged seals, Aadhar Cards and other documents. Pursuant to the information, the raiding party went to the flat at 'D' Wing, Room No.502, Flat No.267, Om Harmony, Sector 10, Kharghar, Navi Mumbai. The police party went to that flat and searched it. Accused Vasant Shinde was found in the flat. On further search, the police found that there were forged rubber stamps, seals, forged documents, forged Identity Cards, forged Aadhar Cards. The rubber stamps, seals were of Manager CIDCO, Chief Land Survey Officer CIDCO, Senior PI EOW, Sub-Registrar etc. There were certain agreements in the files which were also forged. Based on these allegations, the FIR was lodged. All these forged seals and documents were taken possession of.

3. During investigation, the main accused Vasant Shinde gave a statement which was recorded under Section 27 of the Indian Evidence Act. Pursuant to that, certain documents were recovered from dicky of his motorcycle. Those documents were in respect of transaction of sale / transfer of rights in respect of lands

which were to be distributed after acquisition under 12.5% scheme implemented in that area.

4. One such document was an agreement dated 19/1/2016 between the land owners B. M. Patil and others and the present applicant. The investigation revealed that the signatures and thumb impression on those documents of the owners of the land were forged and the land owners never executed that document. That particular document bears the photograph and signature of the present applicant as the purchaser of the rights of the land owners. These are the main allegations against the present applicant.

5. The investigation is carried out and the chargesheet is filed against the other accused Vasant Shinde, Prakash Atre and Abhijeet Wadgaonkar.

6. Heard Mr. Gangwal, Ld. Counsel for the applicant and Mr. Yadav, Ld. APP for the State.

7. Shri. Gangwal submitted that the applicant is falsely implicated. He submitted that he is not the beneficiary under any scheme. He has not signed the purported document and under that document he is not the beneficiary. He further submitted that in any case the evidence consists of documentary evidence and all the documents are in custody of the Investigating Agency. Therefore, custodial interrogation of the applicant is not necessary. He submitted that the offence is committed by the main accused Vasant Shinde and his statement cannot be used against the present applicant. He further submitted that the applicant had preferred the application for anticipatory bail before the Court of Sessions in which he was granted interim protection on 28/2/2018. The Sessions Court rejected his application on 14/11/2018 and thereafter he had approached this Court for the same relief. This Court had granted interim relief since 29/11/2018 and till today he is having interim protection. He further submitted that the Investigating Agency did not call him even once for investigation and therefore, his custodial interrogation is not necessary. He further relied on the judgment

of the Hon'ble Supreme Court in the case of **Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Others reported in (2011)1 SCC (Cri) 514**. He particularly relied on paragraphs 94 and 122 which read thus-

"Paragraph – 94

The complaint filed against the accused needs to be thoroughly examined including the aspect whether the complainant has filed false or frivolous complaint on earlier occasion. The court should also examine the fact whether there is any family dispute between the accused and the complainant and the complainant must be clearly told that if the complaint is found to be false or frivolous, then strict action will be taken against him in accordance with law. If the connivance between the complainant and the investigating officer is established then action be taken against the investigating officer in accordance with law."

*“**Paragraph – 122** The following factors and parameters can be taken into consideration while dealing with the anticipatory bail.*

i. The nature and gravity of the accusation and the exact role of the accused must be properly comprehended before arrest is made ;

ii. The antecedents of the applicant including the fact as to whether the accused has previously undergone imprisonment on conviction by a Court in respect of any cognizible offence;

iii. The possibility of the applicant to flee from justice.

iv. The possibility of the accused likelihood to repeat similar or the other offences.

v. Where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her.

vi. Impact of grant of anticipatory bail particularly in cases of large magnitudes affecting a very large number of people.

vii. The courts must evaluate the entire available material against the accused very carefully. The court must also clearly comprehend the exact role of the accused in the case. The cases in which accused is implicated with the help of Sections 34 and 149 of the Indian Penal Code, the court should consider with even greater care and caution because over implication in the cases is a matter of common knowledge and concern ;

viii. While considering the prayer for grant of anticipatory bail, a balance has to be struck between two factors namely, no prejudice should be caused to the free, fair and full investigation and there should be prevention of harassment, humiliation and unjustified detention of the accused ;

ix. The court to consider reasonable apprehension of tampering of the witness or apprehension of threat to the complainant ;

x. Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have *to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail."*

8. As against this, Ld. APP submitted that the offence is serious and big scam is going on in that area depriving poor land owners of their legitimate rights.

9. I have considered the contentions raised by both the parties. The judgment relied on by the Ld. Counsel for the applicant itself provides guidelines for deciding an application for anticipatory bail. Applying such guidelines, it can be seen that the accusation are not made with the object of injuring or humiliating the accused in this case. Similarly, these guidelines also provide that the impact of grant of anticipatory bail in case of large magnitude affecting very large number of people, is an important consideration. In the present case also forged documents are created to deprive the real land owners of their legitimate rights.

The forged seals in the name of high authorities could affect large number of people. The offence is indeed very serious because what was recovered from the main accused are the important articles in the nature of forged seals purporting to be of high ranked officers including police officers and officers of CIDCO. Therefore, conspiracy is obviously spread wide. The present applicant is definitely the beneficiary of the document under which he is shown to be the purchaser of the rights of the land owners. In this view of the matter, the custodial interrogation of the applicant is absolutely necessary to find out the benefit which he has derived from such transaction and also to find out if there are other transactions which are based on similar modus oparandi. The chargesheet is filed against the main accused. The applicant was granted interim protection and therefore he was never subjected to custodial interrogation. It is necessary to find out exact nature of connection of the applicant with the main accused Shinde which can be revealed only during custodial interrogation. In this view of the matter, the protection of anticipatory bail cannot be granted to the applicant. Hence, the Application is rejected.

10. At this stage, Ld. Counsel for the applicant prays for extension of interim relief granted to the applicant. However, looking at the seriousness of the allegations and looking at the fact that already for a long period custodial interrogation of the applicant could not be carried out, his request cannot be accepted.

(SARANG V. KOTWAL, J.)