

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

**ANTICIPATORY BAIL APPLICATION NO. 2745 OF 2019**

1. Shailesh Hanumant Lohkare  
2. Nandakishor Nathu Bharekar ...Applicants

Versus

The State of Maharashtra ...Respondent

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Mr. Prashant M. Patil, Advocate for the Applicants.  
Smt. A. A. Takalkar, APP for the State-Respondent.  
Mr. Sanjay S. Mehta (for victim).  
Mr. Khose S. L. (A.P. I.) Alankar Police Station, Pune City, Present.

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**CORAM : PRAKASH D. NAIK, J.**

**DATE : 16<sup>th</sup> December, 2019**

**PC :**

1. The applicants are apprehending arrests in C.R. No. 235 of 2019 registered with Alankar Police Station, District Pune for offences punishable under Sections 406, 420, 465, 468, 471 r/w Section 34 of Indian Penal Code.

2. The applicants had preferred an application for anticipatory bail before the Sessions Court which has been rejected by order dated 25<sup>th</sup> November, 2019.

3. The prosecution case is that the Special Power of Attorney dated 25<sup>th</sup> June, 2019 was executed in favour of the Rajesh Lohakare

(Accused No.1) who is proprietor of Shree Suppliers. The said Power of Attorney was registered in the office of Joint Sub-Registrar, Haveli No.13, Dist. Pune. The accused No.1 in collusion with joint Sub-Registrar Haveli No.22 and applicants executed sale deed in favour of Rajesh Lohakare and registered it on 25/06/2019. The applicants were witnesses to the said Power of Attorney. The case of the complainant that the Power of Attorney was executed only for the sale of Flat No.103. It is submitted for completing formalities by the applicant had obtained blank letter heads signed and seal of company from the complainant. Although the Power of Attorney provided for sale of one flat i.e. Flat No.103. The accused in connivance with each other had executed the sale deed before concerned authority in respect of about 10 other properties. It is alleged that the other properties were to be sold to accused No.1. No objection certificate and possession letter were prepared by the accused which are fabricated documents by misusing the letter heads.

4. Learned advocate for the applicants submitted that there was business transaction between the complainant and the accused No.1. There is no dispute about execution of the Power of Attorney. The applicants had merely acted as witnesses to the Power of Attorney. The applicants were not concerned with the execution of sale deed.

The witnesses had identified the person executing the sale deed before the Sub-Registrar before registration of First Information Report ('FIR' for short). It is submitted that the dispute is of civil nature. The Accused No.1 has given details with regards to the payment made to the complainant in the civil suit. The FIR was lodged subsequently. The applicants are willing to cooperate with the investigation and their custodial interrogation was not necessary.

5. Learned APP submitted that the involvement of the applicants is right from inception. They had acted in connivance with the accused No.1. The applicants were signatory to Power of Attorney and they were aware that it was related to Flat No.103. It is submitted that the applicants were instrumental in taking the blank letter heads under the false pretext from the complainant. The said blank letter heads were subsequently misused by fabricating the contents about possession letters and no objection certificate. It is further submitted that the accused No.1 had issued cheque in favour of the complainant. However, it was agreed that since the said cheque was not issued in respect to the present transaction and the amount was agreed to be returned to accused No.1. The accused No.1 then authorized the applicants to collect this amount. It is alleged that both the applicants had accepted the amount which is apparent from the receipt. This shows complicity of all the accused

who had acted in concert.

6. Learned counsel for the intervenor submitted that there is involvement of the applicants. Right from the beginning they were acting in connivance with accused No.1. They were signatory to the Power of Attorney as witnesses. They were aware about the transactions.

7. I have perused the FIR and the investigation papers. Undisputedly, the applicants had acted as witnesses to the Power of Attorney which was executed for Flat No.103. The sale deed was however executed for about 10 properties including Flat No.103. The properties included said flat and shops. The case of the prosecution is that the applicants and the accused No.1 were acting in connivance with each other. The applicant No.1 is brother of the accused No.1. The FIR indicates that the right from beginning the applicants had approached the complainant while executing the transactions. The applicants had taken away the blank letter heads which were misused for preparing the no objection certificate as well as the possession letter. Suit is filed by accused. In the said suit he has claimed that accused is in possession of the premises and sought injunction. Apparently, from the no objection certificate dated 7<sup>th</sup> July, 2019 and possession letter dated 29<sup>th</sup> June, 2019, it can be seen

that several other properties were included which were allegedly sold as per the sale deed. The complainant was not present at the time of execution of the documents before the Sub-Registrar. Prima facie on perusal of the FIR and investigation papers, complicity of the applicants is disclosed. In the light of these circumstances no case for grant of bail is made out.

8. Hence, I pass the following order.

**ORDER**

Anticipatory Bail Application No.2745 of 2019 stands rejected and disposed of.

(PRAKASH D. NAIK, J.)