

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2703 OF 2018

Kiran Dattatray Khedkar] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Sanjay Patil, Advocate for the Applicant.

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

Mr. R.M. Haridas, Advocate for the Intervener.

API Bhagvn Palve attached to Shirur Police Station present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 17 JUNE, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.I-679/2018 registered with Shirur Police Station, Pune (Rural) u/sec. 420 r/w 34 of I.P.C.

2. The FIR is lodged by one Vaishali Raskar. According to her, she had married to one Dattatray Raskar in the year 1994. Her husband died in the road accident in the year 1995. The informant was in touch with the family of the husband. She started residing at her parents house. It is her case that in his life time, the informant's

husband had purchased 45 guntha land in Gut No.24/1 at Shirur from one Chabukswar. In the year 2014, the first informant came to know that her mother-in-law i.e. Dattatray's mother had fraudulently got one sale deed executed in her own name. When the first informant made inquiries, she came to know that her mother-in-law Sugandhabai had obtained the first informant's signature on sale deed and had got the land transferred in her name. The said land was further sold to the present applicant and some part of that land was sold by the applicant to one Bafna. The first informant has preferred Civil Suit No.337/2014 in the Court of Civil Judge, Senior Division for execution of sale deed and consequent prayers. Since the suit was pending, the revenue records had shown the pendency of the suit through entry no.19583 where pendency of the suit was mentioned. On 15/09/2017, the Civil Court directed to affix the court fee stamp on or before 30/10/2017. The first informant complied with that directions on the last day i.e. on 30/10/2017. However, in the meantime through application dated 24/10/2017, the present applicant, aforesaid Sugandhabai and Bafna made an application to the Tehsildar for removal of the remark of "lis pendency" from entry no.19583. It is the case of the first informant that in the said

application, wrong information was mentioned that the suit was dismissed. The said application was received by the Tehsildar office on 01/11/2017 and without issuing any notice and without actual serving any notice on the first informant, the remark of “lis pendency” was removed through entry no.21465. Thus, there was forgery of records based on false information supplied by the applicant and others. The FIR further mentions that after the remark was removed some portion of the land was sold to Bafna.

3. Heard Mr. Sanjay Patil, Ld. Counsel for the Applicant, Ms.S.S.Kaushik, Ld. APP for the State/Respondent and Mr.R.M. Haridas, Ld. Counsel for the Intervener.

4. Ld. Counsel for the applicant submits that the applicant had made an application for removal of the remark of “lis pendency” before Tehsildar. He submitted that there was no unlawful intention behind making that application. He further submitted that it is a civil dispute and therefore custodial interrogation of the applicant is not necessary since the entire evidence consists of documents and applications which are in dispute.

5. Ld. Counsel for the intervener submitted that the intention of the applicant and his two conspirators are clear from the fact that disputed entry was corrected without first informant being served.

6. Ld. APP submitted that there is no evidence to show that the notices were issued to the first informant and the entry was corrected to remove the remark of “lis pendency” and afterwards some portion of the land was sold.

7. Considering all this, it is quite clear that entry was corrected without issuing any notice to the first informant. It appears that all the conspirators including the present applicant had acted in collusion to deprive the first informant of her rights. The applicant was well aware of the fact that the suit was still pending and yet false averments were made in the application that the suit was dismissed. Subsequently, the Tehsildar also without issuing any notice to the first informant changed the entry. All this shows that the entire offence was committed with planning and with collusion with each other. Therefore, custodial interrogation of the applicant is necessary to find out the exact nature of planning and collusion between the accused.

Hence, there is no merit in the application. Hence, the following order.

ORDER

Application is rejected and stands disposed of accordingly.

(SARANG V. KOTWAL, J.)