

3. It has been vehemently submitted on behalf of the applicant that the applicant is serving as a Maintenance Surveyor under the City Survey Office at Aurangabad. Job of

the applicant is limited to record entries in the register of mutation. The sanctioning authority is the City Survey Officer and no authority vests with him except to do clerical work. The informant by name Sayyed Rafat s/o Sayyed Gaus Moiyoddin Shuttari lodged the report contending that his father had property ad-measuring 107.7 sq.meter in City Survey No.8668. His father sold property ad-measuring 92.1 sq mtr out of the said to one Janardhan Chavan by way of sale deed dated 24.06.1976. After death of Janardhan Chavan, his legal heirs sold the property ad-measuring 107.7 sq.meter to co-accused in 2012. It is contended by the informant that, he saw the Property Register Card and got the knowledge about the fact that the legal heirs of Janardhan Chavan had no authority to sell the entire property, yet, they have sold 15.6 sq.meter, which was belonging to the informant. It was also noticed by the informant that the co-accused have made construction on the entire property.

4. It is argued on behalf of the applicant that the extract of register of mutation shows that the entry dated 06.06.2012 is inadvertently taken by the applicant. There is no dishonest intention on his part. The said entry has been now corrected. It has been reiterated by the learned Advocate for the applicant that wrong entries in the mutation register are made by clerical mistake and it does not amount to any offence. He pointed out that the FIR has been lodged belatedly

i.e. after 8 years. Physical custody of the applicant is not required for the purpose of investigation. He, therefore, canvassed for anticipatory bail for the applicant.

5. Per contra, the learned APP strongly opposed the application by contending that the entry has been taken by the present applicant and he was in fact bound by law to consider all the proper documents. Belated correction will not wipe out the offence that has already been committed.

6. At the outset, it is to be noted that the informant though appears to have lodge the report belatedly, yet, he has prima facie valid points. His father was holding 107.7 sq.meter area from City Survey No.8668 out of which, he had sold 92.1 sq.meter on 24.06.1976 to Janardhan Chavan. Naturally, 15.6 sq.meter still remained with the father of the informant. The copy of the property register card produced on record shows this fact. It appears that still a entry was taken by mutation no.12023 by which names of legal heirs of Janardhan Chavan were taken on record, which is dated 24.05.2012. It is not clear as to why the names of legal heirs of father of the informant were not taken and continued. However, it appears that when one Mohammad Shoeb and Mohammad Yusuf purchased the property on 26.06.2012 (as per FIR sale deed is dated 28.05.2012), at that time the entire land i.e. 107.7 sq.meter is shown to have been sold. The present applicant is

admitting that he has taken that entry. Now he is coming with a case that he has no authority to sanction the said entry, but when it comes to creation of false record, then whether that entry is sanctioned or not and what is its effect would be considered at the time of final hearing and not at the stage of grant of anticipatory bail. On what basis, the said entry was taken and without there being any order to correct the said record, even the present applicant has corrected it by saying that it is inadvertently done. When he had no authority to sanction, then he has no authority to correct it also on his own. Definitely, he does not deserve by his own conduct any discretionary relief. Further, the grant of anticipatory bail is extra-ordinary relief which has to be used in deserving cases only; this cannot be a deserving case where the applicant would be entitled to be enlarged on pre-arrest bail. Hence the application stands rejected.

(SMT. VIBHA KANKANWADI, J.)