

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.123 OF 2020

1. Gazanfar Mohammed Saleh Navdekar,
2. Asim Mohammed Siraj Patel,
3. Nazim Mohammed Siraj Patel
versus

Applicants

The State of Maharashtra

Respondent

WITH
INTERIM APPLICATION NO.1 OF 2020

Mohammad Shafi Yusuf Patel
versus
Gazanfar Mohammed Saleh Navdekar & others

Applicant
Respondents

Mr.Chaitanya a. Malgaonkar i/by Akshay M. Gosavi for applicants.
Smt.Veera Shinde, APP, for State.
Mr.Prashant Patil for intervenor.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th February 2020

PC :

1. This is an application for anticipatory bail in connection with CR No.249 of 2019 registered with Taloja Police Station, Panvel, for offences under Sections 419, 465, 466, 468, 471 r/w 34 of Indian Penal Code. The FIR was lodged on 14th December 2019.

2. The case of prosecution is that the complainant is the owner of land Gat No.116, Hissa No.2 admeasuring 0-90-6 (90 gunthas 6 aar) situated at Taloja, Taluka Panvel and vide sale deed dated 15th July 2016 registered with Sub-Registrar, Panvel, he sold 10 gunthas from

larger property to accused no.1 Nazim Mohammed Saleh Navdekar and present applicants (accused nos.2 to 4). The complainant further sold 10 gunthas vide sale deed dated 27th May 2017 registered with Sub-Registrar, Panvel out of said larger property to Nazim Mohammed Saleh Navdekar and present applicants. The complainant, thus, sold 20 gunthas land out of larger property to the accused. Their names were mutated in 7/12 extract. However, while registering the sale deeds, the complainant had not read the same and that he did not notice the description of the plots mentioned therein that on the North-South direction there was 20 meters road and on East-West direction there was 50 meters road. When he informed the same to the accused, they claimed that description was proper. The complainant did not agree with the description and he did not consent for demarcation of the plots. Without informing him the accused made application dated 22nd March 2018 to Land Records Department for demarcation of plots and demarcation was done on 3rd May 2018. It is alleged that signature of complainant was forged on the said application dated 22nd March 2018 and on the documents recording demarcation on 3rd May 2018.

3. The applicants preferred application for anticipatory bail before the Court of Sessions. The said application was rejected by order dated 8th January 2020.

4. Learned advocate for applicants submitted that allegations in the FIR are false. Custodial interrogation of the applicants is not necessary. Owing to the lands being included in the area of Panvel Municipal Corporation area and consequent rise in market value of

the land, the complainant was forcing the accused to surrender the land in exchange for land situated behind the plot and far away from road. This offer was refused by accused. Accused no.1 made an application before Land Records Department for demarcation. Accordingly demarcation was conducted. When hearing was held before the authority, the complainant objected by stating that his signature on application for demarcation is forged and on that ground demarcation was cancelled. The said order was challenged by accused before higher authorities and the same is pending. With a view to pressurize the applicants, the complainant has lodged the FIR after a period of two years from the date of registering the sale deed. The accused no.1 was arrested on 26th December 2019. He was remanded to custody. Subsequently he was granted bail on 6th January 2020. The applicants and accused no.1 purchased total land of 10 gunthas by sale deed dated 15th July 2016 for a consideration of Rs.5 lakh and vide sale deed dated 27th May 2017 further 10 gunthas for Rs.5 lakh. It is difficult to accept that the complainant did not read the sale deeds properly. He did not initiate any civil proceedings challenging the sale deeds. He did not deny existence of sale deeds. The stand that sale deeds were recorded incorrectly was taken belatedly. The layout maps annexed to the sale deeds describes 10 guntha purchased by applicants and co-accused. The accused with the consent of complainant had applied to the Superintendent of Land Records for demarcation, which was carried out on 3th May 2018 in presence of purchasers and seller. The applicants relied upon application for demarcation and copies of demarcation documents. Custodial interrogation of applicants is not necessary. They are willing to co-operate with investigation.

5. Learned APP submitted that the applicants are involved in crime. They have forged the signature of complainant. Their custodial interrogation is necessary. The co-accused was arrested and thereafter granted bail. The applicants had filed an application for demarcation of property and also for fragmentation of other property of complainant by seeking access road to their property and prepared necessary measurement map by showing presence of complainant at the time of measurement of properties, though he was not present at the relevant time. The applicants forged signature of complainant and tried to secure the orders from concerned authorities.

6. Learned advocate for intervenor opposed the application. It is submitted that 7/12 extract of the piece of land is in his name. He sold 20 gunthas of the larger area. It was sold in two parts. The 7/12 extract of land mentioned 20 meters road on the North-South side of the plot and also 50 meters road on East-West side of road. The applicant was not aware of the same. At the time of making signature in the sale deed, the applicant did not inquire or peruse the sale deed and believed the words of accused as they were on good terms. The demarcation conducted on 3rd May 2018 is by forging signature of intervenor as he never applied for demarcation. The signatures of complainant were forged and he was impersonated to indicate that complainant was present at the relevant time. Measurements of the plots took place on 3rd May 2018 and papers of measurement contained names of Makdum Diwan and Eliyas Patel as panch and the papers also refers to applicants' signatures. The complainant filed complaint with Land Records Department, Panvel to cancel demarcation and accordingly Land Records Department

conducted hearing and cancelled the demarcation. Without informing the complainant, application was preferred to Land Records Department, Panvel for conducting measurement and demarcation of land purchased by them from complainant. The measurement was conducted when the complainant was absent and he was at Mumbai. The accused forged the signature of complainant on application and on measurement and demarcation papers.

7. I have perused the documents. Investigation is in progress. The case of prosecution is that the accused had preferred application for demarcation. The accused has also conducted demarcation. According to the complainant, he was not present at the time of demarcation. However, the applicant was allegedly impersonated by showing him present at the time of demarcation. During investigation the complicity of accused is established. Investigation conducted by police and documents on record prima facie shows complicity of accused in offence. The accused no.1 was arrested. He was in custody. Subsequently he was granted bail. Considering the nature of allegations, custodial interrogation of applicants is necessary.

8. Hence, I pass following order :

ORDER

(i) Criminal Anticipatory Bail Application No.123 of 2020 is rejected. Interim Application No.1 of 2020 is disposed of.

9. At this stage learned counsel for applicants submits that the applicants intend to approach higher Court. Learned counsel for

intervenor objected for extension of interim relief on the ground that there is likelihood of tampering of evidence by the applicants. Considering the submissions, the interim relief granted earlier is extended for a period of three weeks from today.

(PRAKASH D. NAIK, J.)

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