

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 243 OF 2020

Rohit Parshuram Kadam ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Ranjeet M. Pawar, Advocate for the Applicant.

Mr. S. H. Yadav, APP for the Respondent – State.

Mr. Pranav Bhoite, Advocate for Complainant/Intervenor.

Mr. J. S. Pansare, Police Hawaldar, Yavat Police Station, Pune Rural,
Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 26th February, 2020

PC :

1. The applicant is apprehending arrest in C.R. No. 398 of 2019 registered with Yavat Police Station, Taluka Daund, Dist. Pune Rural for offences punishable under Sections 420, 467, 468, 471 r/w Section 34 of Indian Penal Code.

2. The FIR was lodged on 8th May, 2019. The applicant had preferred application for anticipatory bail before the Sessions Court which was been rejected by order dated 22nd January, 2020.

3. The case of the prosecution is that on 26th June, 2002, the accused No.1 executed an agreement of sale with the applicant. It is alleged that the complainant had filed the suit for specific

performance. There was entry of *lis pendens* in the records. The false document was created by suppressing entry of '*lis pendens*' and agreement was executed with the applicant. The accused No.1 has expired after registration of FIR. The contention of the applicant is that he is bona fide purchaser. He relied upon the agreement executed with accused No.1. The applicant has parted consideration amount of Rs. 6,50,000/- by way of cheque. The custodial interrogation of the applicant is not necessary. It is also submitted that the accused No.4, 7 and 8 are the legal heirs of accused No.1, who are granted protection under Section 438 of Cr.PC. Accused No. 9 to 12 were also granted anticipatory bail by the Sessions Court. However, application of accused No.5 & 6 was rejected. They are sons of accused No.1.

4. Learned APP submitted that the precautionary steps required while executing the sale deed were not taken by the applicant which shows the malafide intention to execute the document. False document was annexed to the agreement by suppressing the fact that there was entry of *lis pendens* in the records and utilizing the said document, the sale deed was executed. During the course of investigation statement of Talathi has been recorded which discloses suppression and preparation of false document with regards to *lis pendens* entry.

5. Learned counsel for the intervenor submitted that the applicant has knowledge that there was entry of *lis pendens*. It is submitted that the applicant has not taken requisite steps while executing document with accused No.1. No public notice was given. The 7/12 extract was not verified. The search with regards title of the property was not taken, which indicates that the applicant was acting in connivance with accused No.1.

6. I have perused the FIR and the documents annexed to this application. Sale deed was executed with accused No.1. Undisputedly, consideration was paid in the sum of Rs.6,50,000/- by way of cheque. The document wherein there is suppression of the entry of *lis pendens* is part of the charge-sheet. The said document was apparently produced by the person who sold the property to the applicant. The case of the prosecution is that the applicant ought to have taken such all the title of the property. The other accused as stated above were granted protection under Section 438 of Cr.P.C. or interim protection. Considering the factual matrix of this case, the applicant can be directed to cooperate with the investigation by protection under Section 438 of Cr.P.C. Custodial interrogation of the applicant is not necessary.

7. Hence, I pass the following order;

ORDER

- i) Anticipatory Bail Application No. 243 of 2020 is allowed;
- ii) In the event of arrest of applicant in C.R. No. 398 of 2019 registered with Yavat Police Station, Taluka Daund, Dist. Pune Rural, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25000/-, with one or more sureties in the like amount;
- iii) The applicant shall attend Investigating Officer on 9th, 11th & 12th March, 2020 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet;
- iv) Applicant shall cooperate with investigation;
- v) Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)