

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

**ANTICIPATORY BAIL APPLICATION NO.356 OF 2020
WITH
INTERVENTION APPLICATION NO.1 OF 2020**

Eknath Kondiba Bhujbal

.. Applicant

Vs.

State of Maharashtra & Anr.

.. Respondents

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Mr.Anand Jondhale a/w. Yashoda Jondhale, Mr.Ajay Jondhale, Mr.Vijay Jondhale, Mr.Raj Jondhale, S.L. Jondhale, Rukhsana Khan, D.T. Mingal i/b. M/s.Jondhale & Co., Advocate for the Applicant.

Mrs.A.A. Takalkar, APP for the Respondent – State.

Mr.Prashant Darandale, Advocate for the Intervenor.

Mr.A.B. Kolekar, PN Loni Kalbhor Police Station, Pune Rural, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 26, 2020.

P.C. :

The applicant apprehends arrest in connection with C.R.No.673 of 2019, registered with Loni Kalbhor Police Station, Pune Rural, for the offences punishable under Sections 467, 468 and 471 read with 34 of Indian Penal Code (“IPC”, for short).

2 First Information Report (“FIR”, for short) was lodged on 19th September, 2019.

3 FIR was lodged by Nandlal Laxmandas Advani alleging that the complainant and others had formed a partnership firm for conducting business of purchase/sale and development of landed property. The partnership firm was named as “M/s.Shakti Developers”. The partners of the firm were complainant, Manoj Advani, Mukesh Haswani, Ramesh Ahuja, Mrs.Lovena Bhagia, Kalash Lalwani, Haresh Paryani, Mohan Chug, Neeranjana Batra, Mrs.Nirmla Bajaj and Sanjay Kalera. It was formed on 4th March, 2008. On 12th March, 2008 Mohan Chug and Sanjay Kalera had purchased the land from Gat No.31 are 53R, on behalf of the partnership firm from Meghraj Karamchandani and Vishandas Khanchandani for consideration of Rs.1,21,00,000/-. The sale deed was registered with Sub-Registrar, Haveli. The amount for purchasing the property was used from account of the partnership firm. The possession of the property with the firm on 15th May, 2008. The documents relating to registration were given in the office of Talathi on 15th May, 2008. On 30th May, 2008, Talathi had inadvertently noted names of Mohan Chug and Sanjay Kalera. They were partners of the firm

and, therefore, the mistake was corrected. However, transaction was executed on behalf of M/s.Shakti Developers, which was a partnership form, which were known to all the partners. On 11th January, 2010, some of the partners retired from the partnership firm. The property was in possession of the partnership firm. It was decided to sell the property and look for bonafide purchaser. On 20th August, 2019, the property was being shown to the proposed customers. When they visited the property they noticed that some persons were unauthorizedly cutting the trees on the property and leveling the land with the help of JCB. On questioning, the person who was present at the place of incident gave his name as Eknath Kondiba Bhujbal (applicant). He prevented them from entering into the property and stated that he is owner of the property. On 22nd August, 2019, complainant obtained 7 x 12 extract of the property. It was noticed that name of the accused was shown in the Mutation Entry No.11887. Complainant obtained the required documents and it was found that by using irrevocable power of attorney, which was forged and fabricated accused Eknath Kondiba Bhujbal had prepared a Gift Deed in his own name. On verification, it was revealed that no such documents were executed with the applicant. FIR was lodged.

4 Applicant preferred an application for anticipatory bail before the Sessions Court. The said application was rejected on 19th December, 2019.

5 Learned advocate for the applicant submitted that the applicant has been falsely implicated in this case. Kalera and Chug gave Power of Attorney to the applicant. The complainant has no locus to file the complaint. The property was purchased in the name of Kalera and Chug. Complainant is not concerned with the property. Custodial interrogation of the applicant is not necessary. On instructions, it is submitted that the original documents are seized by the police. The applicant had complied with the directions. There is no documentary evidence to show that Sanjay Kalera and Mohan Chug had purchased the property under the name of M/s.Shakti Developers. Handwriting experts have given opinion that the signatures on Power of Attorney as well as the Gift Deed are genuine and original. Applicant is a senior citizen and agriculturist. Stamp paper of the Power of Attorney was brought by Sanjay Kalera and Mohan Chug and they got it notarized. There are complaints against the complainant's firm and partners. The land in question as well as ancestral property was sold by applicant's family. The land is in possession

of applicant's family. There is no motive for forgery. The dispute is of civil nature. There is no gain to the applicant. His custodial interrogation is not necessary. As per Hindu Succession Act, Hindu ancestral property cannot be transferred by Kondiba without permission of his sons and daughters. The possession of the property is with the applicant. Suit was filed bearing Regular Civil Suit No.1544 of 2019, against Sanjay Kalera and Mohan Chug. Complainant filed proceeding viz. Special Civil Suit No.1131 of 2019, in respect of the land and Power of Attorney.

6 Learned APP submitted that the offence is of serious nature. Applicant is involved in forgery. Custodial interrogation of the applicant is necessary. The applicant obtained old stamp paper from stamp vendor. He forged signatures of Sanjay Kalera and Mohan Chug and prepared false Power of Attorney on 28th March, 2008, in his favour. He executed sale deed of the property in favour of accused no.2. The custody of the applicant is necessary to seize the documents. The applicant sold 17.66 R land to accused no.2 for consideration of Rs.29,00,000/-. Accused no.2 issued cheque of Axis Bank for the said amount. There is collusion of all accused for grabbing the property of M/s.Shakti Developers.

7 Learned advocate for the intervenor adopted the arguments of learned APP. It is submitted that there is direct evidence against the applicant. M/s.Shakti Developers is a partnership firm. The complainant has locus to file the complaint. The property was purchased by the firm. Two partners had executed Gift Deed on behalf of the partnership firm. Property was purchased by Sanjay Kalera and Mohan Chug. Total consideration was paid to them. The accused have no right in the property. False Power of Attorney was prepared by him. By using the Power of Attorney, he executed Gift Deed for himself. On 12th March, 2008, possession of the property was handed over to Mr.Sanjay Kalera and Mohan Chug. Being the Managing Partners of M/s.Shakti Developers, the sale deed was signed by Sanjay Kalera and Mohan Chug. Hence, the application be rejected.

8 I have perused the documents. By Sale-Deed executed on 12th March, 2008, M/s.Shakti Developers had purchased the said property. The documents were executed on behalf of partners of the firm, namely, Sanjay Kalera and Mohan Chug. The question of invoking the Power of Attorney in favour of those person do not arise. The property is belonging to

M/s.Shakti Developers and not individually to aforesaid persons. The amount towards the consideration was paid from the account of M/s.Shakti Developers.

9 Power of Attorney is allegedly forged. Applicant had filed the suit, however, by filing suit, it cannot be said that the property belongs to him. The handwriting opinion is obtained by the accused in October 2019. Investigation is required to be conducted. The claim of the applicant is, apparently, *prima facie* false. According to the prosecution, custodial interrogation of the applicant is necessary. The original documents are to be seized from him. The applicant is not traceable. He has not co-operated with the investigation. The co-accused are released on bail. The allegation of forgery of signature and preparing false Power of Attorney and Gift Deed, is attributed to the applicant. Considering these circumstances, no case for grant of anticipatory bail is made out.

10 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.356 of 2020, is rejected and disposed of accordingly;

- (ii) Interim Application No.1 of 2020, is disposed.

(PRAKASH D. NAIK, J.)