

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (ABA) NO.303 OF 2020

(Sabir Khan s/o Niyaz Khan Vs. State of Maharashtra thr. PSO PS Kotwali, Nagpur)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Mr. Saurabh Singha, Advocate for Applicant.
Mrs. K.R. Deshpande, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 15th DECEMBER, 2020.

Heard.

2. The applicant is apprehending arrest in Crime 188/2020 registered with Police Station Kotwali, Nagpur for offence punishable under sections 419, 420, 467, 468, 471 read with section 34 of the Indian Penal Code.

3. The crime is registered on the basis of the complaint lodged by Mr. Anand Vishwanath Shrivastava, who is irrefutably the owner of agricultural land admeasuring 0.22 HR bearing field 103/5 situated at mouza Gorewada, Nagpur.

4. The gist of the complaint is that when Mr. Anand Shrivastava applied for certified copy of the sale-deed between him and the previous owner Mr. Nilkanth Mendhe, he was shocked to learnt that the applicant Sabir Niyaz

Khan is shown to have purchased the property vide registered sale-deed. Further inquiry revealed that an imposter impersonated as Anand Shrivastava and executed the sale-deed in favour of the applicant.

5. While granting interim protection, this Court was *prima facie* impressed by the submission that the applicant is also a victim. However, perusal of the case diary reveals that far from being a victim *prima facie*, the applicant is the master-mind of the fraud. There is more than ample material in the charge-sheet to link the applicant with the crime. Perusal of the sale-deed reveals that as against the market value of Rs.77 lakhs the applicant purported to purchase the property for Rs.60 lakhs. The recital in the sale-deed is that Rs.35 lakhs are paid to Mr. Anand Shrivastava in cash and five cheques are issued as against the balance consideration of Rs.25 lakhs. The cheques which are referred to in the sale-deed are 017431 to 071435. The I.O. has collected the necessary record from the bank concerned. It appears that only one cheque 017431 is issued and deposited in some account, which obviously is not the account of the informant. Cheque 017432 is shown returned due to signature error. There is no record of cheque 017433 and 017434 and according to the bank cheque 017435 is unused.

6. In so far as the cash consideration of Rs.35 lakhs which is mentioned in the sale-deed, there is absolutely no

material substantiating the said payment to any person.

7. I am more than satisfied that *prima facie* the applicant is not a victim as claimed and that false statements are made in the application seeking pre-arrest protection, particularly the statements in paragraphs 8 and 9 of the application, which are made on oath. The submission that some six months prior to the sale-deed notice of intention to purchase the property is published in the daily newspaper 'Nav-Bharat', even if accepted at face value, does not take the cause of the applicant any further. Even if such notice is published, it is imminently possible that the real owner either may not be reading the Hindi newspaper or may have otherwise missed the notice.

8. No discretion can be exercised in favour of the applicant. The application is dismissed.

JUDGE