

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

CRIMINAL APPLICATION (ABA) NO. 832 OF 2019

Pradeep s/o Dhruv Sontakke .Vs. State of Maharashtra, through PSO, P.S.
Khamgaon (City), Tal. Khamgaon, Dist. Buldana.

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

Court's or Judge's orders.

Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. M.K. Pathan, A.P.P. for non applicant-State.
Mr. H.R. Gadia, Advocate for first informant.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 06, 2020

CRIMINAL APPLICATION (APPP) NO. 1978 OF 2019

This is an application for assisting the prosecution
filed by the first informant-Vijaysingh Rajput.

For the reasons stated in the application, the
application is allowed. Mr. H.R. Gadia, learned counsel is
allowed to assist the prosecution.

The application is disposed of.

CRIMINAL APPLICATION (ABA) NO. 832 OF 2019

Heard Mr. Sirpurkar, learned counsel for the
applicant, Mr. Pathan, learned Additional Public Prosecutor
for non applicant-State and Mr. Gadia, learned counsel
assisting the prosecution on behalf of first informant-
Vijaysingh Rajput. Also, perused the reply filed on behalf of
the prosecuting agency.

2. Applicant is apprehending his arrest in connection with Crime No.243/2019 registered with Police Station, Khamgaon (City), Tq. Khamgaon, Dist. Buldhana for an offence punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code.

3. According to prosecution case, plot no.23 situated at Khamgaon belongs to complainant-Vijaysingh Rajput. As per prosecution case, co-accused- Mahadeo Wamanrao Pachpor in connivance with the revenue officer i.e. Talathi one R.D. Chopade, got mutated his name in the revenue record. It is also the case of the prosecution that these two co-accused persons in connivance with applicant got the sale-deed of the said plot executed in favour of the present applicant. It is not in dispute before this Court that a registered sale-deed was executed in favour of the applicant by Mahadeo Pachpor for a valuable consideration of ₹8,17,000/-. The said sale-deed is duly registered before the competent authority.

4. During the course of submissions it is revealed to this Court that Vijaysingh Rajput/complainant has filed a suit for declaration against Mahadeo Pachpor and the present applicant. It is also not in dispute that the present applicant has filed written statement and also lodged his counter claim. Said civil suit is pending vide Special Civil Suit no.29/2019 on the file of learned Civil Judge Senior Division, Khamgaon. Fairly learned counsel for the applicant

made a statement before this Court that in said suit filed on behalf of the first informant, an ad interim injunction granted and application for temporary injunction is still pending before the competent Court.

5. *Prima facie*, a document transferring title in favour of the applicant is there. Whether the first informant is an owner or co-accused Mahadeo Pachpor is the owner of the said plot is a disputed question of fact which will be adjudicated in Special Civil Suit no.29/2019 by learned Civil Judge Senior Division, Khamgaon. However, till that time, in my view much weightage will have to be attached to the sale deed executed in favour of the applicant which is duly registered in the office of Sub-Registrar at Khamgaon.

6. On 05.12.2019, the applicant was protected by this Court on a condition that applicant shall attend the police station from 07.12.2019 to 14.12.2019. Learned Additional Public Prosecutor, on instructions from the investigating officer, informed this Court that the applicant did attend the police station and he has joined the investigation.

7. It is worth to mention here that the applicant is working as Medical Officer in Government Hospital at Khamgaon. Therefore, there is no chance that he will not be available to the course of justice.

8. In that view of the matter, without prejudice to the case of the parties to the civil suit, in my view, liberty of the applicant can be protected. That leads me to pass the following order:

ORDER

(i) The application is allowed.

(ii) In the event of arrest in connection with Crime No.243/2019 registered with Police Station, Khamgaon, Tq. Khamgaon (City), Dist. Buldhana for an offence punishable under Sections 420, 468, 471 read with Section 34 of the Indian Penal Code, applicant- Pradeep s/o Dhruv Sontakke be released on he executing P.R. bond in the sum of ₹10,000/- with one solvent surety in the like amount.

(iii) Applicant is directed to attend Police Station, Khamgaon (City), Tq. Khamgaon, Dist. Buldhana as and when he is called by the investigating officer. The investigating officer shall not call the applicant in the police station during duty hours of the applicant and preferably shall call the applicant on Sunday by giving clear cut two days written communication to the applicant.

The application is disposed of.

JUDGE