

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

CRIMINAL APPLICATION (ABA) NO. 837 OF 2019

Ramesh Wasudeo Raut .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 Court's or Judge's orders.
and Registrar's Orders.

Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. M.K. Pathan, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 06, 2020

Heard Mr. Sirpurkar, learned counsel for the applicant and Mr. Pathan, learned Additional Public Prosecutor for non applicant-State. 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, Tq. Khamgaon (City), 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, accused-Mahadeo Wamanrao Pachpor in connivance with the Revenue Officer i.e. Talathi one Mr. R.D. Chopade, got mutated his name in the revenue record. It is also case of the prosecution that those two co-accused

persons got sale-deed of the said plot executed in favour of Pradeep Sontakke. It is the case of the prosecution that at the time of execution of the sale-deed, the present applicant has acted as an witness to the said sale deed. It further allegation of the prosecution that the present applicant has withdrawn the amount deposited in the account of accused Mahadeo Pachpor.

4. 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.

5. During the course of the submissions, it is revealed to this Court that Vijaysingh Rajput/complainant has filed a suit for declaration and permanent injunction against Mahadeo Pachpor and one Pradeep Sontakke. 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 the said suit filed on behalf of the first informant an ad interim injunction was granted and the application for temporary injunction is still pending before the competent Court.

6. *Prima facie*, a document transferring title in favour of Pradeep Sontakke is there. Whether the first informant or

co-accused Mahadeo Pachpor is 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, 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.

7. On 06.12.2019, the applicant was protected by this Court on a condition that applicant shall attend the police station from 08.12.2019 to 14.12.2019. Learned Additional Public Prosecutor, on instructions received from the investigating officer, submitted that the applicant did attend the police station and has joined the investigation.

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- Ramesh Wasudeo Raut 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 once in a week i.e. on every Thursday and shall be with the Investigating Officer from 11:00 a.m. to 05:00 p.m. till filing of the charge-sheet.

The application is disposed of.

JUDGE

srwagh