

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.127 OF 2021

GOPAL S/O BHIKCHAND AGRAWAL
VERSUS
THE STATE OF MAHARASHTRA

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Mr. A. S. Bajaj h/f Ms. U. P. Kale, Advocate for applicant.
Mr. A. M. Phule, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 25th February, 2021

Pronounced on : 31st March, 2021

ORDER :-

. Present applicant has been arrested on 02.01.2021 in connection with Crime No.150 of 2016 registered with Shirpur Police Station, Dist. Dhule for the offences punishable under Sections 420, 417, 404, 465, 466, 467, 468, 471, 120(B) of Indian Penal Code. He has filed present application for bail under Section 439 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. A. S. Bajan holding for learned Advocate Ms. U. P. Kale Advocate for the applicant and learned APP Mr. A. M. Phule for the respondent. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. At the outset, it is to be noted from the contents of the FIR, which was lodged by one Mazhar Bismillah Bagwan, that he had purchased many agricultural lands on 21.02.2013 for an amount of Rs.22,50,000/- from one Nilesh Mohan Mahajan and Prabhavati Mohan Mahajan. Thereafter, when he had taken copy of the decision in R.T.S. Revision No.298 of 2015, some irregularities have been found. It was stated that there was absolutely no order of converting those lands to non agricultural land. He then made more investigation and, at that time, it was revealed that the lands have been made Non Agricultural by order dated 22.10.2012 by said Nilesh Mahajan and Prabhavati Mahajan and its reflection has been taken in city survey record. He made further inquiry and it was found that, that order was not in respect of village Boradi, but it was in respect of Dahiwad. When the land which she had purchased was from Boradi village, therefore, he lodged report against said Nilesh Mahajan and Padmavati Mahajan for cheating and preparation of forged documents etc.

4. Thus, it can be seen from the contents of the FIR that name of the present applicant is not appearing in the FIR. No role is attributed to him. It appears that the matter was for investigation for considerable time and it is now the prosecution story that one Arun Ramdas Fulpagare, who appears to be a peon with Prant Office, Shirpur is

involved in this matter. It is also the prosecution story that in the course of investigation, police had found out a computer used by the stamp vendor Rajesh Gujarati from which it is stated that the fabrication of the Non Agriculture order has been prepared and it is stated that it is at the instance of the present applicant. It was also revealed that the Sub Divisional Officer had refused to pass N.A. order. Only on the basis of these averments, it cannot be stated that there is direct connection between the crime and the present applicant. No doubt, there appears to be two more offences registered against the present applicant, however, unless in this case also it is established that there is connection between the crime and the present applicant, his criminal antecedents cannot be considered. Though there appears to be a substance in the say of the prosecution that the N.A. order is fabricated, but then unless it is shown that there is direct involvement of the present applicant, he need not be kept behind bar. Another fact that is to be noted from the order passed by the learned Additional Sessions Judge, Dhule and also the other police papers that the computer of the stamp vendor has been seized, but then he has not been made as an accused in this case. Therefore, the present applicant deserves to be granted regular bail. Ample opportunity was given to the investigating agency to make investigation in respect of the involvement of the present applicant.

Under such circumstance, the application deserves to be allowed.

Hence, the following order :-

ORDER

- 1 Application stands allowed.
- 2 Applicant - Gopal s/o Bhikchand Agrawal, who has been arrested in connection with Crime No.150 of 2016 registered with Shirpur Police Station, Dist. Dhule for the offences punishable under Sections 420, 417, 404, 465, 466, 467, 468, 471, 120(B) of Indian Penal Code, be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.
- 3 He shall remain present before the Investigating Officer on every Wednesday and Friday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- 4 He shall not tamper with the evidence of the prosecution in any manner.
- 5 He shall not indulge in any criminal activity.
- 6 Bail before the Trial Court.

[SMT. VIBHA KANKANWADI, J.]

scm