

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

7 ANTICIPATORY BAIL APPLICATION NO.188 OF 2021

**PARMESHWAR SURYABHAN NAZARKAR
VERSUS
THE STATE OF MAHARASHTRA**

...
**Advocate for Applicant : Joshi Rahul G.
APP for Respondent: Smt.R.PGaur**
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**CORAM : MANGESH S. PATIL, J.
DATE : 05.04.2021**

PC. :-

The applicant is apprehending his arrest in connection with Crime No.370/2020 registered with Gangapur Police Station, District Aurangabad for the offences punishable under Sections 467, 468, 471, 420 read with Section 34 of the I.P.C. and under Section 82(c) and 83 of Registration Act and seeking bail under Section 438 of the Cr.P.C. in the event of his arrest.

2] The sum and substance of the allegations in the F.I.R. lodged by a Sub Registrar are to the effect that the applicant got executed registered Deed of Assignment dated 12/1/2015 purportedly executed by the original lease holder of the M.I.D.C. plot by name Mr.Joseph Gnana Durai by impersonation. It is also alleged that even he indulged in forgery and fabrication in preparing an order purported to be passed by an Officer of the M.I.D.C. Aurangabad giving consent for transfer of the plot by original lease holder Mr.Joseph Gnana Durai to the present applicant.

3] The learned advocate for the applicant Mr.Joshi would submit that the police machinery is proceeding against him *mala fide*. In fact he is the victim. He had parted with huge money to the tune of Rs.2 crore and odd which was paid to the original lease holder by way of cheques and the transactions have been duly reflected both, in the Deed of Assignment as well as the bank statement of the account of the applicant. He would submit that it was deceased lease holder who had prepared/procured the disputed order purportedly sanctioning approval to the transfer of the lease hold rights issued by an Officer of the M.I.D.C. Since the original lease holder had obtained such permission the applicant had no role to play. He had genuinely believed in this order, parted with huge money and got the Deed of Assignment executed. He being the victim of the fraud has lodged a written complaint to the Commissioner of Police on 12/1/2021 requesting for detail investigation.

4] The learned advocate would submit that the daughter of the original lease holder had been to him demanding ransom and on his failure to do so she has engineered a false case and the applicant is being falsely implicated.

5] The learned advocate would further submit that the applicant in the application itself has explained as to how the previous crimes were registered and have triggered registration of the present crime since he could obtain bail in that crime.

6] The learned advocate Mr.Joshi would lastly submit that the applicant is a permanent resident of Aurangabad. His children are school/college going. There is no likelihood of his jumping the bail. He is ready to cooperate the Investigating Officer. His custodial interrogation is not necessary and the

application be allowed.

7] The learned A.P.P. strongly opposes the application. She submits that at this juncture there is enough material to reveal commission of the crime. Though the statement of the daughter of the original lease holder has not been recorded by the Investigating Officer under Section 161 of the Cr.P.C. he has received a letter purportedly addressed on her behalf by her advocate wherein it has been specifically alleged that the photograph on the executant of the Deed of Assignment is not that of the original lease holder, her father. The learned A.P.P. would further point out that even the information received under the Right to Information Act from the office of the M.I.D.C. is sufficient to show that the disputed order is forged one. The applicant being the beneficiary of this order, *prima facie* there is material to reveal his complicity in the crime, the Investigation into which could not be completed without resorting to his custodial interrogation. There are criminal antecedents. Apart from the present crime few other crimes of similar nature stand registered against him and therefore the application be rejected.

8] I have carefully gone through the papers.

9] As can be appreciated, there are 2 allegations of forgery. Firstly, in respect of preparing a bogus and false order purportedly passed by the M.I.D.C. Officer sanctioning transfer of the lease hold rights in favour of the applicant. There is a reply under the Right to Information Act by the office of the M.I.D.C. flatly denying that there was any proposal moved seeking such sanction. It has further been emphatically stated that the order is forged one. At this stage, this much of material is enough to infer that the Order is false

and fabricated. Apart from the original lease holder, who is no more, the applicant was also highly interested in having this order to enable transfer of the lease hold rights. If the document now turns out to be fabricated one, since he has derived the benefit under this order, *prima facie* it is a fit case where his custodial interrogation would be required to complete the investigation in this respect.

10] So far as the other instance of forgery is concerned, it is being alleged that by resorting to impersonation, keeping someone present in place of original lease holder, the Deed of Assignment is stated to have been got executed. At this juncture, the letter sent by the daughter of the original lease holder through her advocate refuting the fact that the photograph appearing on the Deed of Assignment is not of her father. At this stage this is sufficient to infer that even the Deed of Assignment was brought into existence by resorting to impersonation. If this is so, assuming for the sake of argument that the applicant had parted with huge sum of money, his custodial interrogation would be necessary to complete the investigation even in this respect.

11] It is also necessary to observe that it has been reported by the Investigating Officer that there is one more aspect of the matter. It is now being revealed that the original owner was holding the plot of the M.I.D.C. for his company by name 'M/s Duroseats' whereas the Deed of Assignment has been got executed and even the money has been transferred purportedly to a company named and style as 'Duro Seats'. Obviously it would require custodial interrogation of the applicant even in this respect.

12] From all the above circumstances, in my considered view, the applicant is not entitled to anticipatory bail, when his involvement in the crime is *ex facie* so obvious. The application is rejected. It is made clear that the observations made hereinabove are only for the purpose of deciding this application and neither the Investigating Officer nor the trial Court shall get influenced by them.

[MANGESH S. PATIL, J.]

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