

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

911 ANTICIPATORY BAIL APPLICATION NO.363 OF 2020

MAHAJAN GUNAJI CHITALE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mrs. Surekha G. Chincholkar, Advocate for applicant

Mr. V.M. Kagne, APP for respondents/State

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 05th JANUARY, 2021.

ORDER :

1 The applicant is apprehending his arrest, in connection with Crime No.4/2020 dated 02.01.2020 registered with Nanded Rural Police Station, for the offence punishable under Section 420, 465, 468, 471, 504, 506 read with Section 34 of the Indian Penal Code.

2 Heard learned Advocate Mrs. Surekha G. Chincholkar and learned AGP Mr. V.M. Kagne for the respondents/State. In order to cut short it can be stated that both of them have made submissions supporting their respective contentions.

3 Perusal of the First Information Report would show that it has

been lodged by one Sushilabai Madhavrao Narwade stating that she and her husband, who is now retired from Postal Department, had purchased plot No.182 from Gat No.12 on 08.04.1987 from the present applicant. She has stated that since the date of purchase she possesses the same and the plot is at a distance of about 10 k.ms., where she is presently residing. She used to go occasionally to the said place and used to maintain it. The owner of plot No.181 had constructed house on the plot and then used to ask the present informant and her husband that they should sale the said plot to them. But they had specifically told that they do not want to sale out the plot. According to the informant, since then i.e. since 8-10 years the plot owners of plot No.181 are annoyed with them. Still the informant used to go to the plot and maintain it. She along with her husband and nephew went to the plot at about 5.00 p.m. on 27.11.2019 and at that time they were resisted by the four members in the family of owner of plot No.181 and stating that it was told that they have purchased the said plot from the original owner of the plot. When the informant tried to say that she has already purchased it from the present applicant, it was told to her that they have got a sale document in their favour executed by the present applicant. The informant and her husband were threatened and there was an attempt to assault them. It is then stated by the informant that the present applicant has cheated them and prepared false document.

4 Perusal of the papers of investigation would show that there is a registered document of sale deed executed by the present applicant in favour of the informant in respect of plot No.182 and it was executed on 08.04.1987. In the said document it was represented by the present applicant that he is the owner of the said plot. Further, the documents show one document, which is styled as “विक्रीखत” has been executed by one Laxman Panduji Shinde on 05.02.2019 in favour of one Sangita Prabhu Raybhole and the present applicant is shown as the person giving consent and it is in respect of plot No.182 and in this document it has been shown that said Laxman Panduji Shinde is the owner of the said plot. The 7/12 extract shows name of Laxman Panduji as one of the co-owners. This document is also a registered document. Name of that Sangita Prabhu Raybhole has been registered in the revenue records. The major transaction appears to be of civil nature and giving rise primarily to the remedy under Civil Law. Further, the incident is stated to have taken place on 27.11.2019; yet, the FIR has been lodged on 02.01.2020 i.e. after a considerable delay. Further, taking into consideration the fact that the present applicant is 75 years old person, now, and the investigation would be dependent on the documents, which are now already in the custody of the Police Officer, the physical custody of the applicant may not be necessary. It will not be out of place to mention here that police had issued notice under Section 41(A)(1) of the Code of Criminal

Procedure, 1973 to the accused, he appeared before the Investigating Officer and it is stated by the Investigating Officer that he cooperated with the investigation, and therefore, the custody of the applicant is not required. Taking into consideration this aspect also he deserves bail. Hence, the application deserves to be allowed, as follows.

ORDER

- 1 Application stands allowed.
- 2 In the event of the arrest of the applicant viz. Mahajan Gunaji Chitale, in connection with Crime No.4/2020 dated 02.01.2020 registered with Nanded Rural Police Station, for the offence punishable under Section 420, 465, 468, 471, 504, 506 read with Section 34 of the Indian Penal Code, he be released on P.R. of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties of Rs.15,000/- (Rupees Fifteen Thousand only) each.
- 3 The applicant shall not tamper with the evidence of prosecution, in any manner.
- 4 The applicant shall not indulge in any criminal activity and cooperate with the investigation.

(Smt. Vibha Kankanwadi, J.)