

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

ANTICIPATORY BAIL APPLICATION NO.528 OF 2021

YUVRAJ S/O NARAYAN VISAVE
VERSUS
THE STATE OF MAHARASHTRA THROUGH POLICE STATION PAROLA DIST.
JALGAON

...
Advocate for Applicant : Mr. L.V. Sangit
APP for Respondent/State: Mr. S.B. Narwade
...

CORAM : MANGESH S. PATIL, J.

DATE : 17.06.2021

PER COURT :

The applicant is seeking bail in the event of his arrest in connection with Crime No.150/2021 registered with Parola Police Station, Parola, Dist. Jalgaon for the offences punishable under Section 406, 408, 420 of the Indian Penal Code.

2. The sum and substance of the allegations are to the effect that the Sarpanch, the Gramsevak and a Peon of the village as also the present applicant who has been serving as a waterman have acted in collusion. They have taken number of illegal entries in the Assessment List of the Village in favour of several persons in respect of different pieces/portions of Gairan land. A separate offence in that respect has been registered.

3. It is now being alleged that applicant has managed to sell a portion that was recorded in his name in the Assessment List, by a registered sale deed and even managed to get the names of the purchasers mutated in

the Assessment List. It is being alleged that all such misdeeds have been done by the office bearers of the Village acting hand-in-glove with the applicant. It is thus being alleged that they have committed misappropriation, criminal breach of trust and cheating.

4. The learned advocate for the applicant would submit that none of the offences being levelled can be made out even if the case of the prosecution is accepted as it is. The applicant has no role to play as far as the record of the Grampanchayat is concerned. He has been serving as a waterman. The Grampanchayat House Property No.532 was standing in his name in the Village Record since the year 2006 which he has sold under the registered sale deed. There is no element of misappropriation or cheating. Nothing is to be recovered. The offence can be made out from the record therefore his custodial interrogation is not necessary. He is a permanent employee and is unlikely to jump the bail. His employment would be at peril if he is arrested. He is ready to co-operate the Investigating Officer. Co-accused Sarpanch has been granted anticipatory bail by the Sessions Court therefore on merit as well as on the ground of parity, the application be allowed.

5. The learned APP would strongly oppose the application. He would submit that at no point of time any portion of the Gairan Land was ever allotted to the applicant still he managed to get his name recorded in the Assessment List and on that basis has executed the sale deed. He has also managed to get the names of the purchasers mutated in the Assessment

List without there being any resolution of the Grampanchayat. There is every room to believe that he has acted in collusion with the other accused. His custodial interrogation therefore is necessary and the application be rejected.

6. I have carefully gone through the papers of the investigation. It does appear that name of the applicant stands recorded in the Assessment List against Grampanchayat House Property No.532 which is a part and parcel of the Gat No.140 (Survey No.84). Admittedly he has sold that piece of land admeasuring 1200 sq.ft by a registered sale deed dated 20.01.2017. In view of such record when a query was put to the learned advocate for the applicant as to what is the source for the applicant to acquire this piece of Gairan land the learned advocate would merely submit that it stands recorded in his name in the Grampanchayat record from the year 2006.

7. Needless to state that if it is a portion of a Gairan land, the applicant is obliged to demonstrate by way of some concrete material as to how his name could be recorded against Grampanchayat House Property No.532. No copy of any resolution of the Grampanchayat is produced to support such a case. If that be so it is apparent that he never derived any valid title which he could have validly transferred to third person that too without concurrence of the Grampanchayat. Obviously there is no resolution by the Grampanchayat permitting him to sell the property.

8. It is now the allegations that in spite of all such state of affairs, the applicant has managed to replace the names of the purchasers in place

of his name against the Grampanchayat House Property No.532. It is being alleged that he along with the Sarpanch, the Gramsevak and the Peon has acted in collusion and managed to take not only the present entry but several other entries in the Grampanchayat Record.

9. Strictly speaking there could be a legitimate debate as to if on the basis of the facts and circumstances the offence punishable under Section 406, 408 and 420 of the Indian Penal Code could be attracted. However, it does appear that it possibly could be a case of creation of a false record by resorting to forgery as well.

10. Be that as it may, going by the allegations, there seems to be active involvement of the applicant in commission of the crime of fabrication of Grampanchayat record which needs to be investigated by resorting to applicant's custodial interrogation.

11. The application is rejected.

(MANGESH S. PATIL, J.)