

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 698 OF 2021

jalindar Arjun Pakhare
Versus
The State of Maharashtra.

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Mr. P.R. Katneshwarkar, Advocate holding for Mr. Shashikiran N. Patil,
Advocate for applicant,
Mr. V.S. Badakh, APP for the respondent-State.

CORAM : V.G. BISHT, J.

ORDER RESERVED ON : 30th August.2021.
ORDER PRONOUNCED ON : 7th September, 2021.

PER COURT:

1] This is an application under Section 438 of Cr.P.C. preferred by the applicant seeking grant of pre-arrest bail in connection with Crime No.0209 of 2021, registered with Police Station, Rahuri, Dist. Ahmednagar for the offences punishable under Sections 420, 465, 468, 471, 504, 506 r/w. 34 of IPC.

2] It is the case of prosecution that the informant came to know that co-accused Arun Wakale is willing to sale his agricultural land bearing Gat No. 1771/1 admeasuring 0 Hectare 49 R. Accordingly, he approached him and agreed to purchase said land for a consideration of Rs. 10 Lakhs. Initially, he paid an earnest amount of Rs. 2 Lakhs in cash and paid balance amount in cash and by cheque lateron. It is alleged that the said accused told him that the land is free from

charge/encumbrances and tendered a copy of 7 x 12 extract. Lateron, a sale deed came to be executed and also mutation entry in favour of the informant thereafter.

3] The prosecution alleges that after some days, the informant received a notice from Dena Bank revealing that the said accused had borrowed loan from the said bank by mortgaging the landed property in question. The informant, therefore, took out a copy of 7 x 12 extract having mutation entry and about having charge/encumbrances of the financial institute. When he inquired this fact from the present applicant, who was Talathi at the relevant time, the latter gave evasive replies. Accordingly, he lodged the report.

4] Mr. Katneshwarkar, learned counsel for applicant, submits that even if the allegations made in the FIR taken as it is, they do not attract commission of offence under Sections 420, 465, 468 etc. at the hands of the present applicant. Rather, the applicant, in the capacity of Talathi bonafidely entertained the application of the informant and took the mutation entry No. 24969 on the basis of the registered sale deed dated 19.5.2017 that too, after following the due procedure as contemplated under the Maharashtra Land Revenue Code, 1966.

5] The learned counsel alleges that it was the accused Arun Wakale, who had fabricated and manipulated the 7 x 12 extract by hiding the encumbrances/charge of Dena Bank and using seal/stamp and signature of Talathi and on the basis of said 7 x 12 extract, executed the registered sale deed in favour of the informant.

6] The learned counsel lastly submitted that there are no antecedents. The investigation is almost complete. All the relevant material has been collected by the investigation officer during the course of investigation. Moreover, the applicant is still serving as a Talathi and if arrested then, he will be subjected to humiliation in the eyes of his relatives and society. Even otherwise, there is no necessity of custodial interrogation and thus, in such circumstances, the application may be allowed, urged learned counsel.

7] Mr. Badakh, learned APP, on the other hand, opposed the submissions by contending that accused Arun Wakale, in collusion with the present applicant, forged the 7 x 12 extract and this being so, custodial interrogation is necessary in order to ascertain, whether, indeed the applicant forged the 7 x 12 tract by misusing his official position. There being no merit in the application, the same is liable to be rejected, argued learned APP.

8] There is no dispute to the fact that at the relevant time, the present applicant was working as Talathi of village Deolali-Pravara, Tahsil Rahuri, District Ahmednagar. I have also gone through the documents produced on record by learned counsel for the applicant. Of much significance is a letter written by the present applicant to S.D.O., Shrirampur Division, Shrirampur, complaining therein that owner of Gat No. 177/1 i.e. Arun Wakale and Anil Rambhau Yeole i.e. informant in the present case, had forged his signature and seal of the office and by taking out 7 x 12 extract and by removing the Mutation Entry No. 24634, 21993, 22557 and 23350 pertaining to the charge of the Dena Bank in respect of the said land, got executed the sale deed. This fact came to his knowledge only when he got a notice from the Dena Bank informing him

that he, i.e. applicant had removed the said charge and thereby helped/enabled the informant to get the sale deed executed without any charge/encumbrances. The applicant also very specifically informed the SDO that the said 7 x12 extract has not been issued by his office and has been forged. The applicant, therefore, requested the SDO that his letter be treated as a revision and the transaction be cancelled.

9] It then appears from Exhibit C that his revision application No. 10 of 2019 was heard by the SDO, Shrirampur and said SDO refused to accede to the prayer of the applicant. However, at the same time, he maintained the status-quo of the mutation entries bearing No. 21934, 21993, 22553 and 23350.

10] What is apparent from the above documents is that, the moment the present applicant came to know about the issuance of 7 x 12 extract from his office, showing the land in question having no encumbrance/charge and finding that the 7 x12 extract has been forged by the accused and informant, he immediately brought this fact to the notice of the SDO, pursuant to which, the SDO entertained the said revision application and passed order, as noted hereinabove. This clearly reflects the conduct of the applicant that is to say the applicant with all promptitude, he immediately referred the complaint to his superior authority, namely, SDO, Shrirampur.

11] Now, it will be a matter of evidence, whether the 7 x 12 extract so issued, was under the signature of applicant or for that matter, that has been forged and fabricated by the accused and the informant.

12] All the above noted documents are admittedly in the custody of the investigating officer. The whole case is based on documentary evidence. There is no necessity of custodial interrogation of the applicant, as is claimed by the learned APP. However, the applicant can be directed to attend the concerned police station and cooperate the investigating officer during the course of investigation and that will take care of the worries of the learned APP.

13] In view of above facts and circumstances, I am inclined to allow the present application. Hence, the following order :-

: O R D E R :

[I] In the event of arrest of the applicant in connection with Crime No. 0209 of 2021, registered with Police Station, Rahuri, Dist. Ahmednagar for the offences punishable under Sections 420, 465, 468, 471, 504, 506 r/w. 34 of IPC, the applicant be enlarged on bail on his furnishing PR Bond in the sum of Rs. 20,000/-, with one or two sureties in the like amount.

[II] The applicant shall attend the concerned police station as and when called and shall cooperate with the police in the investigation.

[III] He shall not tamper with the evidence.

14] The application stands disposed of in aforesaid terms.

**[V.G. BISHT]
JUDGE.**

grt/-