

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.889 OF 2020

Pandit s/o Shivram Tiparse,
Age : 47 years, Occu. Service,
R/o Latur,
Taluka and District Latur

APPLICANT

VERSUS

The State of Maharashtra,
through Police Inspector,
M.I.D.C. Police Station, Latur,
Taluka and District Latur

RESPONDENT

Mr. D.A. Mane, Advocate for the applicant
Mr. V.S. Badakh, A.P.P for the respondent/State

CORAM : MANGESH S. PATIL, J.

DATE : 20.01.2021

PER COURT :

The applicant, who is one of the accused from Crime No. 361 of 2020, registered with MIDC Police Station, Latur for the offences punishable under Sections 420, 467, 468, 471, 387, 506 and 120-B of the Indian Penal Code, is seeking bail in the event of his arrest.

2. In substance, the allegations are to the effect that the applicant was acting as Sub-Registrar at Murud. By hatching a conspiracy with the other accused, he allowed a declaration deed to be registered, which contained recitals regarding transfer of the property by the

informant to the persons making the declaration, when, in fact, there was no such sale-deed ever executed and registered between the informant and the main accused making that declaration.

3. The learned Advocate for the applicant submits that the applicant, in discharge of his official duty, has allowed the declaration deed to be registered. He had no role to play as far as the transaction is concerned. There was no conspiracy. It was a routine matter. He was not supposed to know the transactions entered into between the parties. Since the document was reciting that a document styled as a sale-deed was already impounded and was regularized by accepting necessary stamp duty and penalty, he allowed the declaration deed to be registered.

4. The learned Advocate would further submit that none of the offences can be made out against the applicant.

5. Lastly, the learned Advocate would submit that already the chargesheet has been filed meaning thereby that everything has been recovered. The applicant's custodial interrogation is not necessary. He has ailing father, taking treatment for cancer at Hyderabad. Except him, there is no-one else to look after the father. He being the Government servant is not likely to jump the bail. He is ready to cooperate the Investigating Officer and may be granted bail by putting him to any condition.

6. The learned A.P.P. opposes the application. He submits that in order to curb the practice, a specific Circular bearing No.4/Pra.Kra.617/2011/3008 dated 22.12.2011 was issued by the Controller of Stamps. The applicant being aware of the said Circular ought not to have allowed such a declaration deed to be registered. He would submit that the declaration deed contained recitals as if there was sale-deed executed between the owner of the property and the persons making unilateral declaration, when, in fact, there was no such sale-deed ever executed and registered transferring the immovable property in favour of the co-accused who made the declaration. In spite of a declaration deed containing such a false statement, the applicant enabled the main accused to execute and get registered the confirmation deed on the basis of which the subsequent revenue entries were sought to be mutated, affecting the rights of the informant.

7. The learned A.P.P. would submit that apart from the role ex facie attributable to the applicant on the basis of the aforementioned facts and circumstances, the Investigating Officer has also collected Call Data Record (CDR), which clearly demonstrates that the applicant has had several telephonic conversation with all the main accused. This circumstance is clearly indicative of a conspiracy hatched amongst all the accused. Considering the role attributed to the applicant, his custodial interrogation is necessary and the application be rejected.

8. I have carefully gone through the papers of investigation. As can be gathered, the allegations are to the effect that the applicant enabled the prime accused to get registered a declaration deed containing recitals regarding execution of a sale-deed, purportedly executed by the owner of the property i.e. the informant in favour of the main accused to suit their purpose and getting the land mutated in their names. This is what was perceived by the Controller of Stamps when he issued Circular dated 22.12.2011, observing therein that the experience had shown that there were instances of such kind of transactions and declaration deeds being executed and registered.

9. Admittedly, no sale-deed was ever registered purportedly transferring the immovable property belonging to the informant to the main accused. In spite of such a state-of-affairs, the declaration deed containing patently false statement regarding execution of such a sale-deed was allowed to be registered by the applicant.

10. It is, therefore, quite apparent that the main accused could not have been able to accomplish the object of crime without there being any active role played by the applicant. This being a matter, which involves conspiracy, custodial interrogation of the applicant is highly imperative. There is CDR demonstrating as to how the applicant has been in constant telephonic conversation with the main accused.

11. Taking into account all the aforementioned facts and circumstances, this is not a fit case to grant anticipatory bail. The application is rejected.

12. At this juncture, the learned Advocate for the applicant submits that the applicant has been enjoying ad-interim relief since the month of October, 2020 and that may be continued.

13. Considering the discussion made hereinabove and the role attributable to the applicant, the request is rejected.

[MANGESH S. PATIL]
JUDGE

npj/ABA889-2020

