

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

...
ANTICIPATORY BAIL APPLICATION NO. 1182 OF 2021
SACHIN KALYAN JADHAV
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicant : Mr. Shubham S. Khoche
APP for respondent State : Mrs. V.S. Chaudhari
with

ANTICIPATORY BAIL APPLICATION NO. 851 OF 2021
ASHOK RASUJI SHEJUL
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicant : Mr.M.P. Jadhav
APP for respondent State : Mrs. V.S. Chaudhari
Advocate to assist APP : Mr. P.R. Nangre

ANTICIPATORY BAIL APPLICATION NO. 960 OF 2021
ANNASAHEB EKNATH LOKHANDE
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicant : Mr. Kshitij H. Surve
APP for respondent State : Mrs. V.S. Chaudhari
Advocate to assist APP : Mr. P.R. Nangre

ANTICIPATORY BAIL APPLICATION NO. 1022 OF 2021
SANDIP PANJABRAO BHAGAT
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for applicant : Mr.Kshitij H. Surve
APP for respondent State : Mrs. V.S. Chaudhari

CORAM : PRAKASH D. NAIK J.

DATE : 14TH OCTOBER, 2021.

ORDER :-

1] The applicants are seeking pre-arrest bail in Crime No. 338 of 2021 registered with Satara Police Station, Aurangabad for the offences punishable under sections 408, 420, 504 r/w. 34 of IPC.

2] The case of the prosecution is that the complainant was in search of residential premises. Sachin Jadhav, Ashok Shejul and Yogesh Ubhedal were aware that the complainant was in search of house. They introduced the complainant to Aditya Garpagare and his maternal uncle Mangesh Bhagwat, Vipul Wakkani and Sandip Bhagat. The complainant was shown the flat premises situated at Gat No. 49, Ajinkyatara Building owned by Annasaheb Eknath Lokhande. It was decided to execute the transaction through the assistance of Aditya Garpagare, Mangesh Bhagwat, Sachin Jadhav, Ashok Shejul and Yogesh Ubhedal. The complainant was informed that Isar Pavti would be executed and within two months registration would be done. The complainant issued a cheque of Rs. 25 Lakhs and the amount was transferred to Aditya Garpagare through RTGS. On 1.11.2019, Annasaheb Lokhande executed Isar Pavti on a bond paper of Rs.100/- Aditya Garpagare did not transfer the amount to Annasaheb Lokhande and retained the said amount with him. Although a period of two months had lapsed, the flat was not registered in the name of the complainant. Annasaheb Lokhande stated that he has not received the amount and the said amount is with Aditya Garpagare. Annasaheb Lokhande promised the complainant that he would recover the amount from Aditya Garpagare and same would be returned to the complainant. However, the amount was not returned to him. Thereafter Aditya Garpagare and Mangesh Bhagwat promised the complainant that a Government job would be provided to him and collected his

educational certificates. However, there was no response. On 8.1.2021, Aditya Garpagare called him by stating that the possession of the flat will be handed over to him. However, possession was not given. The complainant demanded his money but except assurances the promises were not fulfilled. Thereafter, Mangesh Bhagwat executed writing on a bond paper of Rs.100/- and stated that transaction would be completed on 2.2.2021. However, deal was not completed. Thus, the complainant was cheated.

3] The learned counsel representing the applicants submitted that their custodial interrogation is not necessary. The amount of Rs. 25 Lakhs was not deposited in the account of the applicants. Section 406 of IPC or 420 of IPC cannot be applied to the applicants. The amount of Rs. 25 Lakhs was transferred into the account of co-accused Aditya Garpagare. The owner of the property Annasaheb Lokhande did not receive the consideration. He has shown his bonafides in executing Isar Pavti. There was no intention to cheat. The contention of applicant Annasaheb Lokhande is that, he came into contact with Mangesh Bhagwat. He was a social worker. Aditya Garpagare is nephew of Mangesh Bhagwat. The consideration for sale of flat was Rs. 25 Lakhs. Agreement was executed on 5.11.2019 between the complainant and him on a notarized bond paper of Rs.100/-. Mangesh Bhagwat and Aditya Garpagare were middlemen and witnesses. The amount was received by Aditya Garpagare. The applicant Annasaheb Lokhande trusted him. It was later realized that Aditya Garpagare and Mangesh Bhagwat had duped him. He decided to cancel the agreement to sale. In pursuance to that, the agreement was cancelled by notarized document dated 31.1.2020. The complainant had barged into the premises of applicant Annasaheb Lokhande. The FIR was lodged by him after about six months.

4] The contention of applicant Ashok Shejul is that he is not the beneficiary of the transaction. He has not received any amount. The transaction was between the owner of the premises and the complainant through Aditya Garpagare and Mangesh Bhagwat. Aditya Garpagare has been arrested.

5] The submission of applicant Sandip Bhagat is also similar. Nothing is to be recovered from him. There has been delay in lodging the FIR. The complainant was silent for six months.

6] The learned APP submitted that all the accused had acted in connivance. The complainant was induced to part with money in respect to the transaction of sale of flat premises. Annasaheb Lokhande is the owner of the premises. Although the amount was transferred to the account of Aditya Garpagare, all the applicants were instrumental in executing the said transaction by inducing the complainant to part with huge amount of Rs. 25 Lakhs. The applicants are named in the FIR. The learned Advocates for the complainant adopted the submissions of learned APP. It is submitted that huge loss of Rs. 25 Lakhs was caused to the complainant. All the accused acted in concert. Their custodial interrogation is necessary.

7] The learned Advocate for applicant pointed out the statement of the complainant recorded on 10.1.2021. In the said statement it was stated that the amount of Rs. 25 Lakhs was transferred into the account of Aditya Garpagare. He did not transfer the said amount to Annasaheb Lokhande. Sale deed was not executed and possession of the premises was not handed over. When he demanded the amount with Aditya Garpagare he stated

that the amount was handed over to Annasaheb Lokhande. He told the complainant to accompany him to the house of Annasaheb Lokhande. They visited the House. He was not found. The complainant asked Mr. Aditya Garpagare to return the amount. At that time, Mr. Garpagare stated that he spent the entire amount and he would return the amount to him.

8] I have perused the documents on record and the investigation papers. From the FIR it is apparent that the premises belonging to Annasaheb Lokhande was to be sold to the complainant. The amount was transferred into the account of Aditya Garpagare. Isar Pavti was executed. The sale deed was not registered. The grievance of the owner is that he did not receive the amount. From the FIR it also appears that although the document regarding sale of property was not registered and the amount was lying with Aditya Garpagare, the complainant believed further promises of Aditya Garpagare and Mangesh Bhagwat, who assured him of providing Government job. After a period of about six months, the FIR was lodged.

9] The applicants apparently, had not received the amount. Indisputably, according to the complainant, the amount was transferred to the account of Aditya Garpagare. Aditya Garpagare has been arrested on 10.9.2021. According to prosecution, after arrest of Aditya Garpagare he was interrogated and he disclosed that the complainant was induced to part with the amount. It was represented that Mangesh Bhagwat and others are working for Charitable Trust and if donation is provided to the Trust, huge loan would be arranged by the Trust. Thereafter, it was decided to execute the transaction of sale of flat premises. The amount of Rs. 25 Lakhs was transferred into the account of Aditya Garpagare as

Processing amount. The complainant was informed that huge amount of Rs. 1 Crore would be provided to him.

10] From the aforesaid facts, it is clear that the complainant has alleged that there was a sale transaction and consideration of Rs. 25 Lakhs was transferred into the account of Aditya Garpagare. He has not disclosed any other transaction as claimed by the prosecution on the basis of interrogation of arrested accused.

11] In view of the above, in my considered opinion, custodial interrogation of the applicants is not necessary. The application deserves to be allowed. Hence, the order :-

ORDER

[i] Anticipatory Bail Application Nos. 1182 of 2021, 851 of 2021, 960 of 2021 and 1022 of 2021 are allowed.

[ii] In the event of arrest of the applicants in connection with Crime No. 338 of 2021 registered with Satara Police Station, Dist. Aurangabad, the applicants be released on bail on furnishing PR Bond in the sum of Rs. 25,000/- each, with one or two sureties in the like amount.

[iii] The applicants shall appear before the I.O. on 25th 26th and 27th October, 2021 between 11.00 a.m. and 1.00 noon and thereafter as and when called for till further orders

[iv] The anticipatory bail applications stand disposed of accordingly.

[PRAKASH D. NAIK]
JUDGE

GRT/-