

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1378 OF 2021

Abdul Kadar s/o Yusuf Chaudhari
Age : 72 years, occ : pensioner
R/o Khadkali Galli, near Satbhai
Masjid Udgir, Taluka Udgir,
District Latur.

Applicant

Versus

The State of Maharashtra and another

Respondents

...

Mr. M.S. Choudhari, Advocate for the applicant.
Mr. A.V. Deshmukh, A.P.P. for respondent – State.

...

CORAM : **PRAKASH D. NAIK, J.**

DATE : 13-12-2021.

ORDER :

1. This is an application for anticipatory bail in Crime No.270/2021 registered with Udgir City Police Station, District Latur for the offences punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code. The First Information Report (for short "F.I.R.") was registered on 23.09.2021.

2. The case of the prosecution is that, the land bearing Survey No. 308 of Udgir is situated within jurisdiction of Udgir Nagar Parishad. It is ancestral property. Applicant's father and uncle had converted the land as non-agricultural vide letter dated 29.11.1975 issued by Collector. Plots were demarcated and sold. Mohammad

Abdul Qadar Mohammad Yusuf Chowdhari had tampered sale deed No.1910/1999 by inserting false statement creating right in his favour. False document prepared showing that Sayyad Amiroddin Sardar Ali Khatib, Sayyad Nijamoddin Sardar Ali Khatib and Sayyad Badiujjama Khatib have sold the property (plot No. 107, Survey No.308) by sale deed dated 13.04.1999 to him by false signatures. On 13.04.1999 Sayyad Nijamoddin Khatib, Sayyad Amoroddin Khatib, Sayyad Badiujjama Khatib were not alive. Abdul Quadar Yusuf Chowdhari transferred the plot in his name in 2018. On the basis of false document, Mohammad Abdul Quadar Chowdhari sold the plot on the basis of sale deed on 08.01.2019 to Shaikh Fayyum Shaikh Mohammad. On 21.06.2019 Shaikh Mohammad sold the plot to Pandurang Parsewar and Giriraj Parsewar. As per inheritance, plot No. 107 of Survey No. 308 is transferred to informant and his brother.

3. Learned Counsel for the applicant submitted that the applicant has been falsely implicated in this case. Saber Patel is friend of applicant. He contacted applicant. He informed applicant that the subject plot belongs to him but he has not mutated the plot since his brothers may claim the share in plot. He would transfer plot in the name of applicant for temporary period. The applicant agreed to do so. Saber Patel approached municipal authorities and completed all formalities of filing application for mutation. What documents were submitted by Saber Patel was not known to the applicant. The name of applicant was shown as purchaser. The

officers from concerned department certified mutation entry in favour of applicant. The applicant executed sale deed in favour of Fayyum. The applicant is aged about 72 years. He is suffering from ailments. The applicant lodged complaint on 30.08.2021. The applicant has not claimed that he is bonafide purchaser.

4. Learned A.P.P. submitted that the applicant is trying to avoid his liability. The transactions were executed in the name of applicant. The offence is serious. Investigation is in progress. The documents are fabricated. Custody of the applicant is necessary. On 13.04.1999 the applicant purchased plot No.107 from father and uncle of the informant for Rs. 40,000/- under registered sale deed. However, on the date of sale, the vendors were dead. The applicant had entered his name in Udgir Nagar Parishad. He sold the plot for Rs. 22,00,000/- to Shaikh Fayyum Shaikh Mohammad which was subsequently sold by said Shaikh Fayyum to Pandurang Parsewar for Rs. 36,00,000/-. The applicant had misled the Sub Registrar, impersonated father and uncle of the informant and prepared bogus document. It is necessary to interrogate the applicant and for effective investigation, his custody is required.

5. On perusal of the documents, it is apparent that the documents are fabricated. The sale deed was prepared showing that the vendors had executed the document. The applicant is senior citizen, aged about 73 years. It appears that Saber Patel has played a vital role in fabricating the documents. There is no

evidence to show that the applicant had impersonated the owners of the property. Saber Patel is not impleaded as accused. His statement is recorded on 24.08.2021. His statement refers to version of applicant that Saber Patel had transferred the plot in his name by inducing him to sign on sale deed. Saber Patel has stated that his mother is Corporater. In 2018 applicant told him that he is handicapped person and requested him to submit application to Nagar Parishad and hence he submitted document in concerned department. His version is doubtful. He admits that he had submitted document. Pandurang Parsewar purchased plot from Fayyum Shaikh. Statement of Fayyum Shaikh was recorded. He stated that plot was purchased from Abdul Kadar for Rs. 22,00,000/-. He has not provided proof of payment to applicant. Hence custodial interrogation of the applicant is not necessary. In the result, I pass the following order.

ORDER

- (i) ABA No. 1378 of 2021 is allowed.
- (ii) In the event of arrest of the applicant in connection with Crime No. 270 of 2021 registered with Udgir City Police Station, District Latur, the applicant be released on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount
- (iii) The applicant shall report the Investigating Officer on 21.12.2021, 22.12.2021 and 23.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.

(iv) The application stands disposed of.

(PRAKASH D. NAIK, J.)

VD_Dhirde