

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

ANTICIPATORY BAIL APPLICATION NO. 1227 OF 2021
WITH
CRIMINAL APPLICATION NO. 2772 OF 2021

JAGANNATH SHANKAR KOLHE (PATIL) ...Applicant

VERSUS

THE STATE OF MAHARASHTRA ...Respondent

Mr. Y.B. Pathan, Advocate for Applicant
Mr. A.S. Shinde, APP for Respondent
Mr. V.Y. Patil, Advocate for assist to APP

CORAM : PRAKASH D. NAIK, J.

DATE : 07.12.2021.

Per Court :

1. This is an application for anticipatory bail in Crime No. 135/2021, registered with Deopur Police Station, District Dhule, for the offence punishable under Section 420 read with 34 of the Indian Penal Code. The FIR has been registered on 23.07.2021.
2. The first informant is Dnyaneshwar Ukhardu Patil. It is alleged that the complainant has retired from Irrigation Department, Dhule, in the year 2017. He knows Jagannath Shankar Kolhe (Patil) (applicant). He was also employed in the same department. The applicant and his son Sandeep Kolhe

(Patil) approached the complainant in July, 2018 and it was represented that Sandeep Patil is dealing in sale – purchase of agricultural land, house and flats. He is earning good returns. It was also represented that in the event the complainant invests his amount after his retirement in the purchase of property, he would get good returns. The applicant, his son and friend of his son – Aananda Single approached the complainant at his residence on 01.08.2018. All of them informed the complainant that they have some properties for investment. It could fetch good returns to complainant. Since the complainant was acquainted with the applicant, he believed their representation. He was induced to part his retirement benefits in the purchase of the property. The complainant was informed that the property at Survey No. 76/2 B, Flat No. 22, bearing area 150 sq.m. owned by Anand Surekh Single is available for sale for consideration of Rs. 10,21,000/-. It was also represented that the house situated at Survey No. 76/2, Plot No. 23, bearing 150 sq.m. area owned by the applicant and his son is available for sale for consideration of Rs. 15,51,000/-. The complainant agreed to execute the transaction for purchase of the premises from the applicant – accused. He furnished two cheques, first

cheque of Rs. 10,00,000/- and second cheque of 15,00,000/- towards the said transaction, in the name of the son of the applicant – Sanjay Jagannath Patil. It was represented that on completion of the execution of the documents, the sale deed would be executed. The complainant had parted the amount which was credited to account of Sandeep Jagannath Patil. The complainant insisted for execution of the sale deed but the same was avoided by the accused. Subsequently, the complainant came to know that the accused had executed the transaction of sale of same property with another person. In pursuant to that the FIR has been registered.

3. Learned Advocate for the applicant submits that the dispute is of Civil Nature. The documents related to execution towards the sale of property. The amount was credited into the account of Sandeep Kolhe (Patil) who is the son of the applicant. The applicant is senior citizen and he is not beneficiary of transaction. The accused is willing to complete the transactions with the complainant at the current market rate of the property. Custodial interrogation of the applicant is not necessary. Reliance is placed on the decision of the Apex Court in the case of **M.Suresh Vs. State of Andhra Pradesh, arising out of**

SLP No. 5657 - 5658 of 2012 and another decision of the Apex Court in the case of **Medmeme, Llc and Others Vs. M/s. Ihorse Bpo Solutions Pvt. Ltd, arising out of SLP (Criminal) No. 1431 of 2015**, and it is contended that the dispute pertains to civil transaction and hence, the applicant need not be subjected to custodial interrogation.

4. Learned APP submits that the Sauda Pawati was executed with the complainant by the applicant on 23.12.2019. It was agreed that the property would be sold to the complainant for consideration of Rs. 15,15,000/-. The amount was parted by the complainant. Subsequently, transaction was executed with another person in respect of the same property by executing Sauda Pawati and the consideration shown in the said transaction was Rs. 5,00,000/-. The second document was executed with a view to frustrate the Sauda Pawati executed with the complainant. The sale deed was also executed with Pradeep Purandas Bairagi by the applicant on 02.06.2020 and the consideration shown therein was Rs. 5,00,000/-.

5. On perusal of the documents, it is apparent that there was dishonest intention on the part of the accused person to deceive

the complainant. The applicant is signatory to the documents as stated above. The documents for sale of property with another purchaser by the applicant. The consideration shown for subsequent transaction is five lakhs which shows that accused intended to frustrate transaction executed with complainant. Surprisingly, applicant is now demanding current rate of property that too after executing transaction with another purchaser. The decisions relied upon by learned Advocate for applicant were delivered in facts of the cases. Considering the factual aspect of this matter, no case is made out for grant of anticipatory bail. Hence, I pass the following order :

ORDER

- i. Anticipatory Bail Application No. 1227/2021 is rejected.
- ii. Criminal Application No. 2772/2021 is disposed off.

(PRAKASH D. NAIK, J.)