IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 8 OF 2021

Yasin Ameer Hamza Motiwala and Ors. .... Applicants
Versus
The State of Maharashtra .... Respondent

Mr. Niteen Pradhan i/b Ritesh Thobde, for the Applicant.
Mr. Ajay Patil, APP for the State/Respondent.
API Amol Misal, EOW, Solapur City present.

CORAM : SARANG V. KOTWAL, J.
DATE : 15th JANUARY, 2021

P.C. :

1. The Applicants have filed this application for their release on anticipatory bail in connection with C.R.No. 1560 of 2020 registered with Sadar Bazar Police Station, Solapur under sections 465, 468, 471 of the Indian Penal Code.

2. The FIR is lodged on 9th December 2020, by one Mahesh Kshirsagar who was working with Solapur Municipal Corporation in the Town Planning Department as a Junior Engineer. He has stated that their

department received an application made by one Sonali Mahindrakar along-with certain documents. She had filed an application for permission of construction. The application was accompanied by certain documents. Out of these documents, a final sanction of lay out plan of Survey No. 34/4A/3(PT) at village Dahitane was found to be a forged document. No such permission was granted. The number 165 mentioned corresponding to that documents was not actually in respect of that document. The lay out plan was purportedly sanctioned in respect of the land owned by the present applicants jointly. The informant had asked one R.K. Dhole about the lay out plan. He had accepted that he had prepared the lay out plan and had submitted it for primary sanction vide Inward No. 2311 on 4th September 2015. Thereafter, the primary sanction at Sr. No. 164, was granted on 17th January 2016. However, final sanction was not granted and yet it was obtained fraudulently. On this basis the FIR is lodged.

3. During the investigation, one Rajkumar Meshram who was working in the same Town Planning Department was arrested. In his remand report, the investigation carried out against him was mentioned showing his complicity. He had received certain amount from applicants' representative Eliyaz Shaikh and he had prepared two forged documents i.e. a final sanction lay out plan dated 6th April 2017 and a forged Development Permission.

4. Heard Mr. Niteen Pradhan the learned counsel for the Applicant and Mr. Ajay Patil, the learned APP for the State.

5. Shri Pradhan submitted that after applicants anticipatory bail application was rejected, Meshram was arrested and his investigation has revealed a different story. Shri Pradhan submitted that remand report of accused Meshram shows that the forgery was done by him and applicants have no role to play. The applicants

were not aware that these documents were forged documents. There was no direct involvement of the applicants. He submitted that because of pandemic and lock-down period it was difficult to approach the Corporation and its offices and therefore applicants were not knowing that the documents were forged. He submitted that besides these two documents, everything was in order as per various permissions given and therefore the applicants could not have had any intention to cheat anybody.

6. Shri Ajay Patil, the learned APP, on the other hand, submitted that not only the final sanction to the lay out plan but the development permission purportedly given on 19th December 2017, is also a forged document. He submitted that the applicants are the beneficiaries of these documents and it is but obvious that it was done at their behest. He produced the papers collected during the investigation and in particular he relied on Register No. “C”, which is Inward Register for the period of 2017-

2018. During that period there was no application for development permission of that particular plot. He submitted that one purchaser of the plot, Sonali is already cheated because she was sold the plot which was not sanctioned in the lay out plan. There were other purchasers and that applicants derived benefits through these forged documents.

7. I have considered these submissions. I have perused the forged development permission dated 19th December 2017. It was issued in the name of the owners. Admittedly, this is a forged document. The investigation revealed that the accused Meshram has used stamp and forged signatures. The fact that, it is a forged document, is supported by statement given by one Vijaykumar Rathod who was Sub Engineer working with the Corporation and purportedly his signature appears on that permission. However, he has denied that signature. At this stage, there is no doubt that this document pertaining to the permission for development is a forged

document.

8. There is a statement of one Aziz Jakatdar who was working as a clerk in the Town Planning Department of Solapur Municipal Corporation. He has stated that in the entire record there was no mentioned of any such development permission. Investigating Agency has recorded statement of one Shamsuddin Shaikh. He has stated in his statement that the final lay out plan was got prepared at the instance of the applicant Rafique through Shri Dhole in the year 2017. This witness has stated that this final lay out plan was given to applicant Rafique. All the applicants Yasin, Rafique and Waseem had signed on this final lay out plan in the presence of this witness and thereafter this plan was given to the Eliyaz Shaikh. This was the document, on which the stamps were illegally put by the accused Meshram. Thus in making of this forged document also applicants' complicity is shown.

9. Thus, There are statements of witnesses

showing that the final lay out plan was prepared at the instance of the present applicants. They had put their signatures on it. Investigation and remand report shows that accused Meshram had actually committed forgery. It also shows that said Shaikh had paid certain amount to Meshram for getting that work done. Besides this final lay out plan, another important document is permission for development. Even this important document is forged. In the investigation it was revealed that the applicants have not made any application in respect of such permission. Without making any application for such permission, they got development permission in their possession. This clearly shows their complicity. Ultimately, applicants are the beneficiaries of the entire fraud. Offence is serious. The matter require further investigation which cannot take place without custodial interrogation of the applicants. The Investigating Agency at this stage has sufficient material to show complicity of the present applicants.

10. Hence application cannot be allowed and it is rejected.

(SARANG V. KOTWAL, J.)