IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 964 OF 2021

Sachin Shivaji Khomane .... Applicant
Versus
The State of Maharashtra .... Respondent

Mr. S. B. Talekar i/b. Talekar & Associates for Applicant.
Mr. S. H. Yadav, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 05th APRIL, 2021

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.644 of 2020 registered at Baramati City Police Station, Pune Rural, on 27/12/2020, under sections 417, 468, 471 and 477 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Talekar, learned counsel for the applicant and Shri. Yadav, learned APP for the State.

3. The First Information Report (for short 'F.I.R.) is lodged on 17/12/2020 by one Vajid Bagwan. He has stated that he

was a small time fruit vendor. He has a handcart and he sells fruits on that handcart at Gunwadi Chowk, Baramati since about 35 years. He sells seasonal fruits. For his business he used to purchase fruits from market-yard Baramati or sometimes directly from the farmers. Generally he used to purchase fruits worth Rs.3,000/- to Rs.4000/- and used to sell them. In the year, 2011, one Rahul approached him. He offered to sell Sapota (*chikoo*) to him. He had paid Rs.6,000/- at that time. After a couple of days Rahul approached him and obtained informant's signatures on blank stamp papers. He also took copy of his photograph. The informant was not sure why he wanted all this. Rahul told the informant that one Hanumant Nazirkar wanted his photograph to see who was purchasing fruits from Rahul. After about 5 to 6 months, Rahul again called the informant and offered to sell Mangoes. The informant purchased 400 Kg. of Mangoes @ Rs.25/- per Kg. In all, he paid Rs.10,000/- at that time. Even thereafter, he purchased fruits worth Rs.25,000/- on two more occasions. The informant's case is that, for about 2 to 3 years he used to purchase fruits worth Rs.1 lakh to 1.25 lakhs from Rahul and used to sell them. In

November, 2020, Rahul came to his house and gave him photocopies of some stamp papers. He told the informant that, Anti Corruption Bureau, Pune would call him for inquiry and at that time, the informant should submit these papers to them and should tell them that they were genuine documents. Rahul further threatened the informant of serious consequences if he did not act on his instructions. In December, 2020 Anti Corruption Bureau, Pune called the informant. The informant went there. Inquiry was made with him. At that time, the informant told the officers that he had transacted with Rahul for the amount of Rs.1 lakh to Rs.1.25 lakhs in connection of business of fruits. Beyond that there was no transaction. The informant sought further information about the stamp papers. There he was told that the stamp papers mentioned following transactions :

(i) On 25/04/2011 the informant had purchased Sapota (*chikoo)* worth Rs.12 lakhs from one Gulab Dhavde,

(ii) On 05/10/2012 the informant had purchased various fruits from Mrs. Sangeeta Nazirkar, worth Rs.14,65,000/-,

(iii) On 19/03/2014 the informant had purchased

Sapota (*chikoo)* worth Rs.11,25,000/- from Mrs. Sangeeta Nazirkar,

(iv) In April 2015 the informant had purchased various fruits worth Rs.19 lakhs from Mrs. Sangeeta Nazirkar.

Thus, in all, the informant was supposed to have purchased fruits worth Rs.63,40,000/- from these persons. The said transactions were shown to support the case of Hanumant Nazirkar that the money was earned through an agricultural income. The informant also came to know that, besides him, others like Aslam Bagwan, Yunus Bagwan, Irfan Bagwan, Mohammad and Hira Shaikh were misled and used by the accused and they were also made to sign stamp papers showing different amounts. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the applicant's name is not mentioned in the F.I.R. His name transpired for the first time in the remand report of the applicant's brother Rahul. The allegations against the present applicant are that the applicant had signed those documents as a witness and had helped

in getting those documents notarized. Shri. Talekar submitted that, no loss was caused to the informant because of this execution of documents. Pursuant to these documents, nobody was cheated. There was no benefit to the applicant. The F.I.R. does not even name the present applicant and there is no role ascribed to him. Shri. Talekar submitted that the offence of cheating is not made out and, therefore, offence of forgery for cheating is also not made out. He submitted that the case is based on documentary evidence, therefore, applicant's custodial interrogation after all these years is not necessary.

5. Learned APP opposed this application. He relied on the allegations in the F.I.R., as well as, allegations against the present applicant made subsequently, which could be divulged only after proper investigation. Learned APP relied specifically on statement of the Notary Gulabrao Gawade who has explained role of the present applicant.

6. I have considered these submissions. The matter is not

so simple as submitted by learned counsel for the applicant. It is not restricted to the allegations in the F.I.R. vis-a-vis first informant. It was a very-well thought-out and well executed plan to show that aforementioned Hanumant Nazirkar and his family had various sources of legitimate income. Shri. Yadav submitted that, Hanumant Nazirkar is a public servant and he is facing investigation for amassing assets disproportionate to his income. This public servant had created record to show that the income which he and his family members had received was earned by selling agricultural products to various vendors. The F.I.R. itself shows that the informant was a small time vendor. He was selling fruits on a handcart, therefore, figures mentioned on the stamp papers are simply not acceptable considering his small business. Hanumant Nazirkar had created this record since year 2011 to show that various amounts were received by his family members by selling fruits. The informant has categorically denied having purchased that much quantity of fruits and all the averments on the stamp papers are obviously false.

7. As far as the present applicant is concerned, statement of Notary Gulabrao Gawade shows that the present applicant used to bring those documents to him for getting them notarized. The actual executant like first informant was never present when the documents were notarized and registered. The applicant used to obtain signatures on those documents. Therefore, everything was done without knowledge of the first informant and other victims like him. Some signatures were made on the register of the Notary and at that time, those signatures were forged because victims like the informant had never approached the Notary for registering and notarising those documents with him. All this was done by the present applicant. Therefore, the offence is very serious. As mentioned earlier, it is not a question whether the informant is cheated or he was put to loss. Obviously, his name was misused. Without his knowledge some signatures were obtained, forged documents were created to cheat the Government and victims like informant and others showing big transactions. The main accused Hanumant Nazirkar wanted to show that it was his income from agricultural sources. Present applicant is nephew of main accused

Hanumant Nazirkar. In this view of the matter, considering the larger conspiracy and seriousness of the offence, custodial interrogation of the applicant is absolutely necessary. No case for anticipatory bail is made out.

8. Application is rejected.

(SARANG V. KOTWAL, J.)