

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.984 OF 2021

Simrat Kaur Vijan	Applicant
versus	
The State of Maharashtra	Respondent

WITH
CRIMINAL APPLICATION NO.1217 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.984 OF 2021

Irfanullah Habibullah Farooqui	Intervenor
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In the matter between :

Simrat Kaur Vijan	Applicant
versus	
The State of Maharashtra	Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.985 OF 2021

Harvinder Singh Vijan	Applicant
versus	
The State of Maharashtra	Respondent

WITH
CRIMINAL APPLICATION NO.1219 OF 2021
IN
ANTICIPATORY BAIL APPLICATION NO.985 OF 2021

Irfanullah Habibullah Farooqui	Intervenor
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In the matter between :

Simrat Kaur Vijan	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Nilesh Tribhuvan with Ms.Alisha Pinto, Mr.Burzin Bharucha,
Mr.Jehan Fulwadiwala i/by White and Brief, Advocates and

Solicitors, for applicants in both applications.

Mr.Y.M.Nakhwa, APP, for State.

Mr.Rahul Arote, advocate for intervenor.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd May 2021

PC :

1. The applicants are apprehending arrest in CR No.98 of 2021 registered with MIDC Police Station, Mumbai for offences under Sections 420, 465, 467, 468, 474 r/w 34 of Indian Penal Code.

2. The FIR was registered on 13th March 2021 by Irfanullah Habibullah Farooqui. It is alleged that partner of Benolone Industries Phiroze Homi Patel had given Power of Attorney to the complainant on 29th August 2008 for supervising work pertaining to company and looking after the Court proceedings. Phiroze Patel died on 22nd February 2014. His wife Dilnawaz Phiroze Patel became partner of Benolone Industries. She executed registered power of attorney in favour of complainant. Since the complainant was looking after the work of Benolone Industries, the original documents, such as, agreement dated 18th March 1975, 12th September 1975, Power of Attorney dated 28th April 1982 and document dated 14th October 1982 are in his possession. The complainant learnt that agreement was executed by Joginder Singh and Simrat KKaur and the premises was handed over to Fort Point for use. The complainant visited the premises and met the owner of Fort Point. The agreements were shown to him. The said documents indicated that complainant has given power of attorney to Baldev

Singh Ishwar Singh and that on the basis of said document, the premises was handed over to Harvin Singh Joginder Singh. The complainant demanded copy of power of attorney from the owner of Fort Point. He was provided power of attorney dated 24th March 2008 which was notarized on a stamp paper in the name of complainant and bearing his signature. The complainant did not sign the document and the said power of attorney was forged and fabricated. The complainant produced the copy of said power of attorney, registration certificate of Benolone Industries and death certificate of Phiroze Patel. In December-2007 notice was issued in the recovery proceeding No.167 of 2004 initiated against Benolone Industries by Union Bank of India. At that time owner of Mona Forgings Mr.Usman Lokhandwalla had appeared as licensee of Benolone Industries. At that time he had stated that property is in possession of Mona Forgings and inspection would not be provided. The statement was recorded by MIDC Police Station. Harvinder Singh Vijan has stated in various proceedings that possession of the premises was taken from various persons. His version is contradictory. Hence, FIR was registered against applicants and others.

3. The applicants preferred applications for anticipatory bail before Sessions Court at Dindoshi. The said applications were rejected by order dated 31st March 2021. While rejecting the said applications learned Sessions Judge had observed that report lodged by the complainant along with statements of witnesses and the documents filed by the parties and more particularly power of attorney dated 24th March 2008 etc clearly show that Plot bearing No.D/9, Marol Industrial Estate, Andheri (East), is owned by MIDC

and it was given on lease basis to Benolone Industries and Phiroze Patel was one of the partner of Benolone Industries who executed agreement and power of attorney in favour of complainant to look after the said land. The documents and statements of witnesses show that the applicants and co-accused prepared vague and fabricated power of attorney dated 24th March 2008 and handed over the plot to another person on lease and obtained amount of Rs.9 crores. The documents show that the accused have no right to rent out the plot to Sudeep Bafna. The accused prepared power of attorney and forged signatures of the complainant. The offence is serious, huge amount is involved, custody of the applicants is necessary. Thorough investigation is required to be conducted.

4. Learned advocate for applicants submitted that FIR is false, baseless and devoid of merits. The subject property was leased to Benolone Industries which was managed by Mr.Phiroze Patel. The said concern had obtained loan from Union Bank of India and for non payment the company was declared NPA. Mr.Phiroze Patel had given power of attorney to complainant on 29th August 2007. Thereafter Amrik Singh Vijay met Phiroze Patel and the plot was surrendered to Nummer Eins Motors. Accused no.3 took over the business and functioning from the said plot. Accused no.3 was introduced to complainant by accused no.1 Baldev Singh Vijan. The accused no.3 was informed that complainant is power of attorney holder of Phiroze Patel. The complainant has fabricated the original power of attorney and by inserting additional page incorporated point no.25. Accused no.3 believed the fabricated power of attorney to be true and it was agreed that accused no.3 would pay Rs.50 lakh to the complainant on monthly basis. The payment was made by

various modes. The applicants learnt that fabricated power of attorney was false. Accused no.3 visited the wife of Phiroze Patel to inquire about power of attorney. She confirmed that there was no such power of attorney given to the complainant. Mrs.Patel lodged the FIR on 16th August 2017 against complainant. In 2008 the DRT had auctioned the plot to Kalindi Properties. They were the owners of the property which is supported by certificate of sale of property dated 2nd February 2009. The complainant prepared false power of attorney and inserted new page. On 27th December 2010 the applicants had entered into conducting agreement with Fort Point Automotive Pvt.Ltd. The complainant was aware of such agreement. He has signed as a witness. The accused no.3 made complaints to MIDC Police Station about threats to vacate the plot. It is submitted that FIR has been filed to cause harassment. The complaint is being lodged at the instance of Jasbir Singh. There are family disputes within Vijen Family. The brother of accused no.3 Jasbir Singh himself and through others initiated criminal proceedings and civil proceedings. The accused no.3 had approached Supreme Court and directions were issued to resolve the said dispute amicably through mediation. Custodial interrogation of the applicants is not necessary. It is further submitted that applicants Harvinder Singh Vijan has not played any role in the transaction. The said applicant has addressed complaints to MIDC Police Station. Letters were addressed to MIDC Police Station about forged power of attorney of complainant. The entire case relates to documents. Learned counsel for applicants has relied upon documents by filing further affidavit on behalf of applicants. It is submitted that complainant has entered into plot D-9 unauthorizedly. He trespassed into the property. No action is initiated against him. He is attempting to enter into the property to

create confusion. He has tried to take possession of the property. The applicant Harvinder Singh has 95% share holding in Benolone Industries. MIDC is the owner of said property which was leased to Benolone Industries. There are FIRs registered against complainant. Some of them are registered by his own family. The allegations are motivated. The false allegations against applicant Harvinder Singh and his wife Simrat Kaur revolve around Plot D-9, MIDC, Marol. The antecedents initiated against Harvinder Singh are initiated by Jasbir Singh. Hence applicants may be released on anticipatory bail.

5. Learned APP submitted that there is voluminous evidence against applicants. They are involved in fabrication of document. Statements of witnesses recorded during investigation clearly indicate that accused are involved in forgery of document. The power of attorney relied upon by accused is false and fabricated. The statements of stamp vendor, notary and other witnesses support the case of prosecution. The offence is serious. There are criminal antecedents against applicants. The evidence on record shows that accused prepared fabricated power of attorney and handed over plot to the co-accused and obtained Rs.9 crores. Custodial interrogation of the applicants is necessary.

6. Learned advocate for intervenor/complainant submit that Phiroze Patel was a partner of M/s. Benolone Industries. He had executed irrevocable power of attorney in favour of complainant on 29th August 2008 to look after day to day affairs of the company and legal matters. Phiroze Patel expired in 2014. Thereafter Dilnawaz Patel became partner of M/s. Benolone Industries. She executed registered irrevocable power of attorney in favour of complainant on 31st August 2015. It was registered power of attorney. She has now

falsely contended by lodging FIR that the said power of attorney was not executed by her to support the accused in the present case. Admittedly the conducting agreement was executed between accused on 27th December 2010 and at that time the complainant was already holding power of attorney executed by Phiroze Patel. The conducting agreement states that the complainant has delegated the powers to Mr. Baldev Singh. M/s. Mona Forgings Pvt. Ltd filed RAD Suit No. 560 of 1990 before Small Causes Court against Benolone Industries. The said suit was decreed in view of consent terms. It is the case of the applicants that Kalindi Properties had purchased the plot after it was auctioned in DRT proceedings. The applicants had no authority to enter into the agreement with third party. One Bharat Mansukhlal Parikh had lodged FIR with MIDC Police Station on 1st February 2016 against directors of M/s. Nummer Eins Motors i.e. Harvinder Singh Vijan, Joginder Singh Vijan and others. It was alleged in the said FIR that accused had forged the lease of the complainant's company transferring electric meter. The applicants had prepared bogus power of attorney. In the fabricated power of attorney it is mentioned that the complainant would not transfer the premises without permission of partners of M/s. Benolone Industries. There are criminal antecedents against applicants. There are contradictions by the accused as to how they have acquired the plot. One of the contentions is that it was acquired from Phiroze Patel. In another proceedings it was contended that it was acquired from M/s. Benolone Industries. In ABA No. 575 of 2016 it was claimed that it was acquired from Usman Lokhandwala and in Suit No. 934 of 2017 it was claimed that it was acquired from Amrik Singh Vijan.

7. I have perused the documents on record. I have also perused the investigation papers. The statements of witnesses recorded

during the investigation were also produced by the investigating officer through learned APP. Prima facie there is material to indicate that claim of the applicants is false. The power of attorney dated 24th March 2008 is fabricated. The applicants have no right in the subject property. The plot is owned by MIDC. It was leased to M/s. Benolone Industries. While Phiroze Patel was one of the partner of Benolone Industries, power of attorney was executed in favour of complainant. The power of attorney executed by the wife of Phiroze Patel is registered document. I have perused the statements of stamp vendor, notary, advocate and other documents forming part of investigation. The complicity of applicants is writ large. Considering the material on record, no case for grant of anticipatory bail is made out and both the applications deserve to be rejected. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application Nos.984 of 2021 and 985 of 2021 are rejected and disposed of accordingly;
- (ii) Interim Application Nos.1217 of 2021 and 1219 of 2021 are disposed of.

(PRAKASH D. NAIK, J.)

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