IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1424 OF 2021

Chandrakant Dattatray Deshpande .... Applicant

versus

State of Maharashtra .... Respondent

…….

- Mr.Ranjeet Pawar, Advocate for Applicant.
- Smt.J. S. Lohokare, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 21st JUNE, 2021
(Through video conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.112/2021 registered with Daund Police Station, Pune, under sections 420, 465, 467, 468, 471 r/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Balasaheb Nimbalkar. He has stated that the land in question i.e. the survey No.179/2 admeasuring 2 hectors 40 R at Betwadi, Taluka Daund, District

Pune, was owned by the present Applicant. The first informant decided to purchase two acres of land based on suggestion given by Hasmukh Nagashi Rambhia and Haresh Hasmukh Rambhia. Hasmukh Rambhia was power of attorney holder of the present Applicant. Between May 2018 to December 2019 the informant paid the entire consideration, which was fixed of Rs.54 lakhs. There was some dispute about the last installment, but on the informant's part, he has made the entire payment. He subsequently came to know that the Applicant had sold the same piece of land to one Suresh Gopu Chavan and for that purpose agreement for sale was registered on 03/02/2017. According to first informant, he was thus cheated and therefore this FIR was lodged.

3. Heard Mr.Ranjeet Pawar, learned counsel for the Applicant and Smt.J. S. Lohokare, learned APP for the State.

4. Learned counsel for the Applicant submitted that he had given power of attorney to Hasmukh Rambhia by a

registered document dated 15/03/2012 in respect of proposed transaction of the same piece of land. In the clause 4 of that document, the Applicant had clearly mentioned that the land was given to him in connection with his rehabilitation and for entering into transaction, permissions of competent authorities were required. For that purpose power of attorney was given to Harmukh to make applications and get necessary permissions. He submitted that an agreement for sale was entered into between the Applicant as the seller and Hasmukh Nagshi Rambhia and Nitesh Shivaji Pokar as the purchasers, in respect of same piece of land in the year 2012. However, sale deed was not executed pursuant to this agreement. On the other hand, subsequently, the Applicant entered into another agreement for sale in respect of the same piece of land with one Suresh Chavan and at that time Hasmukh had signed as a witness on that document. Therefore Hasmukh was aware that the Applicant intended to sell this land to Suresh and not to Hasmukh and Nitesh Pokar as decided earlier.

5. He submitted that thereafter Suresh as a power of attorney holder of the Applicant executed and registered the sale deed in respect of same piece of land in the year 2020. At that time, he had used a purported order of permission granted by S.D.O. for transfer of this land.

6. The main subject matter of the complaint is the sale deed executed by Hasmukh in favour of the first informant. In this sale deed, Hasmukh had described himself as the owner and not the power of attorney of the original owner i.e. present Applicant. In the sale deed, purported permission was annexed, which was a forged document. He submitted that the documents in question were used by Hasmukh and Suresh. The present Applicant had nothing to do with creation or use of those documents. He submitted that, the Applicant was entitled to enter into transaction with Suresh because he had not executed sale deed in favour of Hasmukh. Hasmukh was aware of the Applicant's transaction with Suresh. Learned counsel for the Applicant emphasized the fact that Hasmukh was a witness to

the agreement between the Applicant and Suresh. Yet Hasmukh executed the sale deed in favour of the complainant without being owner of the land.

7. Learned APP opposed this application. She relied on the fact that two documents in the nature of permission granted for sale that very piece of land were found to be forged documents. She submitted that therefore the offence has assumed seriousness because the seal and signatures of governments competent authority were forged.

8. I have considered these submissions, undoubtedly creation of forged permission by using forged seals and signatures is a serious offence. However, submissions made by learned counsel for the Applicant will have to be taken into consideration as well. As mentioned earlier, the Applicant had entered into transaction in respect of same piece of land firstly, with Hasmukh and Pokar in the year 2012. It was only an agreement for sale and it had not progressed to the execution of

sale deed. Subsequently, he entered into another agreement regarding same piece of land with Suresh on 03/02/2017. Very significantly Hasmukh was a witness to this agreement. This means that it was agreed between the parties that the first agreement for sale in the year 2012 was not to be given effect to any further. Subsequently, Hasmukh himself sold this piece of land by a registered sale deed to the present informant. At that time, he represented himself to be the owner of that land and had not described him as a power of attorney holder of owner of that land. In that sale deed one of the forged permission was annexed at the time of registration. This sale deed was dated 20/05/2019. The purported permission was dated 14/06/2018. Therefore, prima facie, there is considerable force in the submissions of learned counsel for the Applicant that once the Applicant had given power of attorney to Hasmukh, a reasonable possibility is that Hasmukh had misused it and that without obtaining permission had created forged documents. Similar is the case with Suresh. Pursuant to the agreement for sale between the Applicant and Suresh, the said Suresh entered into a sale deed in favour of himself as a power of attorney holder of the Applicant and at that time, another forged permission dated 14/06/2018 was used. The Applicant had not signed the sale deed. That sale deed was executed on 09/12/2020. At this stage, there is possibility that the Applicant was not aware of forgery of the government permissions. The matter requires investigation. However, considering the aforementioned facts, the Applicant's custody will cause irreparable harm to him, it ultimately it is established that he is innocent. Sufficient doubt is created about his involvement in the transactions. Therefore the investigation can go on without his actual custody. All the important documents are already in custody of the Investigating Officer. Therefore I am inclined to protect the Applicant by way of order of anticipatory bail.

9. Hence, the following order :

O R D E R

(i) In the event of his arrest in connection with C.R.No.112/2021 registered with Daund Police

Station, Pune, the Applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

(ii) The Applicant shall attend the concerned Police Station from 05/07/2021 to 08/07/2021 between 01.00 to 05.00 p.m. and shall cooperate with the investigation.

(iii) In addition, the Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.

(iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)