

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1526 OF 2021

Riyaz Samad Khan	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. Dheeraj Panchange for Applicant.
Smt. Anamika Malhotra, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 14th JULY, 2021
(Through Video Conferencing)

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. I 393 of 2016 registered at Hill Line Police Station, Dist. Thane, under sections 420, 464, 465, 466, 467, 468, 470, 471 and 474 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Dheeraj Panchange, learned counsel for the applicant and Smt. Anamika Malhotra, learned APP for the State.

3. The First Information Report (for short 'F.I.R.') is lodged by one Chainu Jadhav who was working as Sarpanch of

village Nevali, at the time of lodging of F.I.R. He has stated that, on 02/12/2016 two ladies approached the Grampanchayat office and made inquiries about a document regarding construction permission. The informant examined that document. It was purportedly given to one Hedar Mhatre vide O.W.No.2012/82 dated 25/10/2012 and it was purportedly signed by one Ananta Mhatre, as Sarpanch of that village. According to the first informant, said person was never Sarpanch of the village, therefore, obviously that permission was false. On further inquiries, the informant was told that the applicant had given this document to these two ladies. The informant made a phone call to the number given by those two ladies. In response, the applicant along with one other person came there. He was confronted with the document. The applicant did not give proper explanation and instead he went away from the office. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that, another F.I.R. vide C.R.No.134 of 2017 was registered at Mahatma Phule Chowk police station on 02/05/2017 under section 420 and

406 r/w. 34 of IPC. The investigation was carried out in that connection and the applicant was arrested. As of today he is released on bail in that connection. The allegations in that case were that the applicant had started his office by the name Shubh Labh Builders and Developers. He had shown forged documents in the nature of sale deed executed by original owner Hedar Mhatre. He constructed small rooms. He sold rooms to victims and entered into transactions with them for sale of rooms for different amounts. The investigation in that case revealed that, he had collected Rs.61,77,955/- from about 14 people on the basis of this forged document, though, he was aware that the land actually belonged to Government of India. Learned counsel for the applicant submitted that, the allegations in that investigation are overlapping to the present case.

5. Learned counsel for the applicant invited my attention to the copies of documents on page Nos.216 and 217 of this application. The said documents are the construction permissions mentioned in the present C.R.No.393 of 2016 of Hill Line police station. The outward number is also the same and it is purportedly

signed by Ananta Mhatre. Learned counsel for the applicant, therefore, submitted that same allegations were part of the investigation in the other offence, in which, the applicant was already arrested and released on bail. He, therefore, submitted that the applicant cannot be arrested on the same allegations.

6. Learned APP opposed this application on the ground that, in the other C.R.No.134 of 2017 of Mahatma Phule Chowk police station, the subject matter was different. It was concerning misrepresentation made to various victims regarding ownership of that piece of land. The present C.R.No.393 of 2016 is concerning only the construction permission which was shown by two ladies mentioned in the F.I.R.

7. I have considered these submissions. Though, in the present case, alleged victims are different, the subject matter remains the same piece of land where construction was to be made by the present applicant as represented by him to the victims. In the investigation in respect of C.R.No.134 of 2017 of Mahatma Phule Chowk police station, same documents which are the subject matter of the present offence were seized and the investigation

was carried out in that connection. In this view of the matter, custodial interrogation on the same set of facts, and for same purpose will not be justified. In the other matter, the applicant was already arrested, investigation was carried out and he is released on bail; even the charge-sheet is filed. Hence, in the present case, the applicant can be protected by an order of anticipatory bail.

8. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No. I 393 of 2016 registered at Hill Line Police Station, Dist. Thane, the applicant is directed to be released on bail on his furnishing P. R. 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 as and when called and shall cooperate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)