

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1747 OF 2021**

Saurabh Kalidas Pakhare	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.1578 OF 2021

Satish R. Sawant	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Niranjana Mundargi with Mr. Shamsheer Garud, Santosh Avhad i/b Jayakar & Associates for the applicant.
Mrs. A.A. Takalkar, APP for the State.
Mr. Vijay Killedar for respondent no.2.

**CORAM: BHARATI DANGRE, J.
DATED : 24th AUGUST, 2021**

P.C:-

1 Both the applicants in the two applications are apprehending their arrest in C.R.No. 306 of 2021 registered with Sangola police station invoking Sections 420, 464, 467, 468, 471 and 120-B r/w Section 34 of the IPC.

Tilak

2 Heard Mr.Niranjan Mundargi, Mr.Samsher Garud and Mr.Santosh Garud for the applicants, Mr.Vijay Killedar appearing for the complainant and Mrs.Takalkar representing the State.

3 The complainant is one Ashant Chandare, resident of Sangola, District Solapur who allege that the Accused nos.1 and 2 approached him and sought for the lay-out plan of the property belonging to him. The complaint revolve around two plots, being Gat No.148/02 belonging to him and Gat No.150/02 belonging to his father. It is alleged that the National Highway 166 is abutting the said properties. Area admeasuring 01H-94R of Gat No.148/02 and area admeasuring 02H – 85R of Gat No. 150/02 is converted into Non-agricultural land vide the order of Tahsildar Sangola vide order dated 16th June 2006. In Gat No.148/02, 57 plots are outlaid whereas in Gat No.150/02, 87 plots are carved out and after selling the said plots, 11 plots from Gat No.148/02 and 21 plots out of Gat No.150/02 remain unsold. The further narration in the complaint is OH – 4R and OH - 32R from the two Survey numbers came to be acquired by National Highway and amount of compensation was also determined by the Government and letter to that effect was received by him. In the year 2009, his father expired and by his Will, even the property in Gat No.150/02 was mutated in the

name of the complainant. Total area of 227.75 is the remaining area out of both the properties, in respect of which a deal was struck with the accused persons.

4 It is alleged that since the accused persons were interested in the said property, they expressed willingness to buy 08R from Gat No.150/02 and it is the allegation of the complainant that the rate decided per guntha was Rs.01,91,000/- i.e. total consideration of Rs.15,28,000/- for 8 gunthas. It is however, alleged that accused no.1 suggested to mention the amount of Rs.4,50,000/- in the registered sale deed as per the actual valuation and it was agreed that he would hand over a demand draft of the said amount and the remaining amount shall be paid at the time of registration. A draft of sale deed was prepared which was approved by the complainant and even a photo of demand draft of Rs.4,50,000/- was forwarded by accused no.2. The draft was handed over to the complainant and he affixed his signature on every page of the sale deed and it is alleged that there was a blank page behind the last page. The signature of the witnesses i.e. Vithal Ingole was taken on a separate paper but it is alleged that the draft of the sale deed was not handed over to him. When the complainant approached the Registrar's office, all the accused persons were present and they paid the sum of Rs.10,70,000/- to him. He was informed by the accused persons that there some typing error in the draft of the

sale deed and some correction was needed. His signature was obtained on the said document and even his thumb impression was taken. It is alleged that when he went to the Registrar's office on the next day, he came to know that the sale deed was already registered on the previous day in the evening. When he obtained the certified copy, it was noticed by him that the land admeasuring 227.75R came to be sold out for a consideration of Rs.43 lakhs.

5 It is not in dispute that the said document is a registered one and it is not the case of the complainant that the said document is forged. What is alleged by him is that the Talathi – Accused No.5 had prepared bogus documents of 7/12 extracts and shown the land to be irrigated land instead of Non-agricultural land and it is alleged that applicant - Saurabh Pokhare was a witness to the said deed. The allegation is actual valuation of the property purchased by the accused is Rs.1,54,87,000/- and the market value of the same is Rs.9,11,00,000/-.

6 As far as the applicant Saurabh Pakhare in ABA No. 1747 of 2021 is concerned, the role attributed to him is restricted to acting as a witness when the sale deed is executed. It is not the case of the complainant that the sale deed is a forged document but his case is that the documents on the basis on which the sale deed is executed is a forged document. There is no challenge to

the valuation report by the Registrar and when confronted, the complainant state that he is likely to challenge the said report.

7 When repeatedly asked, the counsel for the complainant submit that the forgery is committed by affixing the certificate from the Talathi which classify some portion of the land as N.A and other one as irrigated land. The said Dakhla is given by Talathi, whereas 7/12 extract of the said piece of land record the entire land as N.A. When asked, what effect it would have on the transaction, particularly when the consideration to be paid was agreed to be Rs.43 lakhs and the deed has been signed by the complainant, the counsel for the complainant state that the valuation of the land is under-rated. My attention is invited by the learned APP to the Valuation Report of the Deputy Registrar, Class-I, Sangola, where the land from Gat No.150/02 and 148/02 has been described as agricultural/irrigated/non-agricultural/highway and the valuation arrived at is Rs.37,07,320/- for the total land purchased by the sale deed admeasuring 227.75.R. Mr.Mundargi make a categorical statement that the stamp duty has been paid on the amount of Rs.44,99,000/-.

8 Though the complainant allege that the actual valuation of the land is Rs.1,54,87,000/- and the market value is Rs.9,11,00,000/-, the said statement when pitted against the Valuation Report submitted by the competent Officer in the

Revenue Department who has valued the land mentioned in the said document at Rs.37,07,320/-.

9 During the course of investigation, the Investigating Officer had made queries to the Registrar who have registered the sale deed vide No. 1070/21 and from the report of the Registrar, it is apparent that the sale deed came to be registered in presence of the seller, purchaser, witnesses and after recording their statements under Section 34 and 35 of the Indian Stamp Act, 1908.

By his response, the Registrar, Sangola has fortified that the document came to be registered on 22nd February 2021. It is not expected for the Registrar to examine how the consideration to be paid for, is calculated and on what basis, as it is open for the parties to agree to the consideration they deem fit. As far as the valuation of the property is concerned, if it is undervalued, it is the State Government which may feel aggrieved.

10 Once the sale deed has been executed and in the light of the response of the Registrar to the query from the Investigating Officer, the applicant deserve a protection by an interim order. Hence, the following order :-

ORDER

- (a) In the event of their arrest, the Applicant – Saurabh Pakhare in ABA 1747/21 and applicant Satish Sawant in ABA No. 1578/21 in connection with C.R.No.306/21 registered with Sangola Police Station, Solapur shall be released on bail on furnishing P.R. bond to the extent of Rs.25,000/- each with one or two sureties of the like amount.
- (b) The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade them from disclosing the facts to Court or any Police Officer and should not tamper with evidence.
- (c) The Applicants shall attend the concerned police station on every Monday and Friday from 10.00 am to 1.00 p.m and make themselves available as and when required by the Investigating Officer.

The Applications are allowed in the aforestated terms.

SMT. BHARATI DANGRE, J