

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2118 OF 2021**

Ashish Ramkaran Thakur			
alias Ashish Ramkaran Pardeshi and Anr.	...		Applicants
Versus			
The State of Maharashtra	...		Respondent

**WITH
INTERIM APPLICATION (STAMP) NO. 13945 OF 2021**

Sudesh Krishna Patil			Intervener
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In the matter between:			
Ashish Ramkaran Thakur			
alias Ashish Ramkaran Pardeshi and Anr.	...		Applicants
Versus			
The State of Maharashtra	...		Respondent

...

Mr. Vinduprakash Pandey with Mr. Vivek Tripathi and Pramodkumar Pandya i/by Legal Edge LLP, for the Applicants.

Mr. R. D. Suryawanshi, for Intervener.

Mr. R. M. Pethe, APP, for the State.

...

CORAM : PRAKASH D. NAIK, J.

DATE : 15th September, 2021.

PC :

This is an application for Anticipatory Bail in C.R. No. 139 of 2021 registered with Manor Police Station for offences under Sections 420, 467, 468, 471 r/w 34 of the Indian Penal Code.

2 The case of the prosecution is that:

The complainant had purchased 120 guntha property from Gut No. 303 (k) out of area 2-71-08 from Roshan Ramesh Gharat on 31st March, 2021. Sale Deed was registered with Sub Registrar, Palghar. Accused No.1 to Accused No.4 prepared false Power of Attorney in favour of Accused No.5 and Accused No.6 and executed transaction with Accused No. 7 and Accused No.8. Documents were submitted to office of Talathi at Palghar. Witness to Power of Attorney Mohan Patil and Baliram Patil submitted affidavit that the documents are executed before them. The applicants in collusion with Jaywant Patil, Chandrakant Patil, Manohar Patil and Raman Patil prepared false Power of Attorney allegedly prepared in 2007. In the Power of Attorney, it is stated that Jaywant Patil and others has sold a land to applicants at the rate of Rs.1,05,000/- per acre and the consideration was paid by applicants to Jaywant Patil and others. On the basis of Power of Attorney the accused tried to dispossess the complainant. They broke the compound wall erected by the complainant. On the basis of Power of Attorney the accused tried to grab land of first informant.

3 The applicants preferred an application for Anticipatory Bail

before the Sessions Court which has been rejected by order dated 13th August, 2021.

4 Learned Advocate for the applicants submitted that the applicants are agriculturists. The land bearing Gut No. 303(k) was represented by accused nos. 1 to 4 to be part of their property. They requested the applicants to purchase certain portion. The applicants purchased the same by paying consideration. In 2007, accused nos. 1 to 4 agreed to execute Power of Attorney in favour of the applicants. Stamp paper was purchased and Power of Attorney was prepared. It was signed by accused nos.1 to 4 and accused nos. 7 and 8. The applicants are having two sets of xerox copies of Power of Attorney, one with the signature of applicants which was signed afterwards and one with the signatures of executors and witnesses. The applicants are in use and possession of property. The complainant and others tried to cause damage to the property. The applicants filed suit against accused nos. 1 to 4, complainant and others for cancellation of their conveyance. The applicants lodged their objections with Talathi. By mistake they submitted the copy of Power of Attorney in which signatures of Power of Attorney holders were missing. Without considering the objection the complainant's name was entered into in 7/12 extract. The complainant has no

locus to challenge the Power of Attorney. Custodial interrogation of the applicants is not necessary. The applicants has filed additional affidavit before this Court. The applicants have given details about the payment made towards purchase of the property along with the bank statement.

5 Learned APP submitted that investigation is in progress. Custodial interrogation of the applicants is necessary. The applicants are involved in fabrication of documents.

6 Learned Advocate for the complainant/intervener submitted that land bearing Gut No.303/C was owned by Jaywant Patil. Out of the land admeasuring 2H-71R-8, the accused sold 120 Ares to Roshan Gharat and Sanjay Raut on 28th September, 2011. Roshan Gharat and Sanjay Raut sold 120 Ares to complainant by registered Sale Deed dated 31st March, 2021. The applicants wanted to grab the said land. Applicant no.1 threatened the intervener and told him to transfer 100 Ares of land in his name. Complaint was lodged by the complainant with Manor Police Station on 5th April, 2021. Notice was issued to applicant no.1 by police. Thereafter, applicant no.1 tried to grab land by encroachment. Thereafter, complaints were filed on 7th April, 2021 and 18th April, 2021 against the accused. On

the basis of Sale Deed the complainant filed application before Talathi to record his name in the Revenue Record. Accused no.2 filed objection contending that Irrevocable General Power of Attorney was executed on 26th October, 2007. The said Power of Attorney was fabricated document. Civil Suit was filed against the applicants and others on 19th April, 2021 for declaring Sale Deeds dated 28th September, 2011 and 31st March, 2021 are null and void. The applicants relied on general Power of Attorney. There were signatures of both the applicants. Thus, there were two Irrevocable Power of Attorneys, one without signatures of applicants and the other with their signatures. Co-accused Jaywant Patil and others filed Written Statement and admitted suit claim of the applicants. They were acting in collusion. The payment made through cheques is not credited in the bank account of Jaywant Patil.

7 I have perused First Information Report and the documents relied upon by both the sides. The case of the complainant is that Jaywant Patil was the owner of original land. He sold the land to Roshan Gharat and Sanjay Raut by registered Sale Deed. The documents on record show that till the land was transferred to complainant, no dispute was raised by the applicants and Jaywant Patil. The question which arise is why the Sale Deed was not

executed. Ownership of land does not get transferred by executing Power of Attorney. There is no authentic document on record to show possession of applicants over the land. The Power of Attorney submitted to Talathi does not bear signatures of applicants. Apparently, the Power of Attorney is not genuine. Considering the factual aspects, I find that this is not a case to grant anticipatory bail to the applicants. Hence, the following order.

ORDER

- (i) Anticipatory Bail Application No. 2118 of 2021 is rejected and disposed of;
- (ii) Interim Application (Stamp) No. 13945 of 2021 is disposed of.

**REKHA
PRAKASH
PATIL**

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REKHA PRAKASH
PATIL
Date: 2021.10.01
16:40:52 +0530

(PRAKASH D. NAIK, J.)