

Mr. Rajiv Patil, Sr. Advocate i/b Anil Shitole, for the Applicant.
Mr. H. J. Dedhia, APP, for the State-Respondent.

RESERVED ON : 28th October, 2021
PRONOUNCED ON : 16th November, 2021.

. The present application has been moved by the applicant under Section 439 of the Code of Criminal Procedure in C.R. No.644 of 2020 registered with Baramati City Police Station, District-Pune-Gramin for the offences punishable under Sections 417, 468, 471, 477, 467 r/w 34 of the Indian Penal Code.

2 It is the case of prosecution that informant is a fruit seller at Baramati. According to prosecution, accused Rahul Shivaji Khomane met informant at marketyard Baramati and told that he owns Chiku

plants at Pandare and negotiated transaction worth Rs.6000/- in respect of Chiku fruits. The accused again second time met informant and entered into a transaction of mango fruits. The prosecution alleges that the said accused Rahul Khomane also took the signature of informant on blank stamp paper of Rs.100/- and other written stamp papers. In the month of November 2020, accused Rahul Khomane visited the informant's house and handed over some photo copies of stamp papers and asked him to keep those with him as he (informant) might be called before inquiry officer at Anti Corruption Bureau, Pune. He further asked him to give statements as per the contents of stamp papers otherwise he would see him. According to prosecution, when the informant was called at the office of Anti Corruption Bureau, Pune, the informant came to know that exaggerated amount of transaction was shown in those stamp papers and it was further shown that the informant had taken fruits of huge amounts from accused Gulab Dhawade and Sangita Nazirkar. Accordingly, he lodged the report.

3 Mr. Patil, learned Counsel for the applicant, submits that while lodging the FIR, the name of applicant was nowhere mentioned nor any act was attributed on his part. It is only on the basis of statement of Advocate Gulabrao Bapurao Gawade, Notary, the present applicant is

roped in, other than that there is no evidence to connect the accused with the alleged offence.

4 Learned Counsel then submits that whole case is based on documentary evidence and entire documents are already seized by investigating officer. Chargesheet is also filed. There are no criminal antecedents and in such circumstances, the present applicant deserves to be enlarged on bail.

5 Mr. Dedhia, learned APP, on the other hand, opposed the submissions by submitting that the present applicant along with others committed the offence of forgery. There is sufficient material on record to connect his involvement. In such circumstances, there being no merit in the application, the same is liable to be rejected.

6 Perused the investigation papers. Admittedly, at the time of lodging of report neither the name of applicant was mentioned in the FIR nor his role was specified in any manner by the informant. It is only during the course of investigation when the statement of Advocate Gulabrao Bapurao Gawade, Notary, came to be recorded, the name of applicant surfaced.

7 I have also gone through the statement of Advocate Gulabrao Bapurao Gawade. It appears from his statement that the present applicant along with accused Rahul Shivaji Khomane and one Yunus Shaikhlal Bagwan had approached him in his office for registration of two documents which were already signed. It was in respect of some agreement in respect of purchase of fruits having transaction amount. When he called those signatories, the applicant told him that they were present outside the office and called the signatories and accordingly took Notary register and documents and then duly signed. When this witness further confronted the applicant and asked him to bring those persons before him, the applicant revealed that two signatories are not there and because of this he (witness) got annoyed and told him unless those two persons are not brought before him, he would not sign the documents and hand over to them. However, later on when those persons were brought and signed in his presence, he handed over the documents from the above.

8 It is more than clear that the applicant had firstly tried to sought the seal and signature of Notary on documents pertaining to the agreement of purchase of fruits in the absence of signatories to those documents. However, when the Notary took objection the applicant

later on produced those persons and after being satisfied, Notary issued the documents. Except that nothing is there to indicate any other role played by the applicant.

9 Learned Counsel for the applicant has rightly submitted that the whole case is based on documentary evidence. All the necessary documents are duly seized by the investigating officer. Investigation is also completed. There are also no criminal antecedents. This being so, in my considered opinion, custody of applicant is unwarranted.

10 In view of above, I am inclined to allow the application. Hence, the following order.

ORDER

(i) Applicant-Sachin Shivaji Khomne shall be released on bail in C.R. No.644 of 2020 registered with Baramati City Police Station, District-Pune-Gramin on his executing P .R. bond in the sum of Rs.25,000/- with one or more sureties in like amount.

(ii) The applicant shall not tamper with the prosecution evidence and shall attend the trial regularly.

(iii) The observations made herein-above are prima-facie in its nature

for the purpose of deciding the bail application only. The trial Court shall not be influenced by the observations while deciding the case on merits.

(iv) Parties to act on copy of this order duly authenticated by the Sheristedar of this Court.

(v) The application is allowed in the aforesaid terms.

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(V. G. BISHT, J.)