

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1872 OF 2019

Vilas Janardhan Patil

Applicant

versus

The State of Maharashtra

Respondent

Mr.Osman A.Chishty i/by Mr.Firoz Behlim, Advocate for the applicant.

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

Mr.Salvi (API), Agripada Police Station, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 12th August 2021

PC :

1. The applicant is apprehending arrest in CR No.123 of 2019 registered with Agripada Police Station for offences under Sections 465, 471, 467, 420 r/w 34 of Indian Penal Code.

2. The case of complainant is that shop no.46 (89) was owned by Mohammed Zaid Kazi and Taslimunnisa Kazi. The premises was sold to the husband of complainant. The shop premises was rented to Rajbali Gaud. The husband of complainant died on 23rd March 1999. The premises/shop bearing no.45/89 was transferred to the name of complainant. The other documents were also registered in her name. In 2014 the premises went for redevelopment to Omkar Builders. Plan was submitted to SRA. Survey of hut bearing no.45/89 and 46/89 was conducted. Hut No.45/89 was sold to Vanita Dornala for Rs.20 lakh. The complainant was residing at the shop premises. Gumasta license was issued. The electricity meter

was installed. The complainant approached the builders for claiming the premises. She was told that shop is in the name of Rupesh Patil. Correspondence was made with Municipal Corporation for Greater Mumbai and SRA. The applicant submitted documents relating to room no.57 (46/89). It is alleged that the applicant prepared false documents. The complainant made an application to BEST for copies of documents submitted by the applicant while filling form with BEST. The documents were recovered and it was found that the accused had fabricated the documents. The applicant is brother of Rupesh Patil. The correspondence was made to the authorities.

3. The applicant preferred application for anticipatory bail before the Court of Sessions. The said application was rejected by order dated 1st August 2019.

4. The applicant was granted interim protection by this Court vide order dated 27th August 2019. The learned counsel for applicant had then contended that the dispute in respect to the room between parties was pending before Assistant Collector, Mumbai. The applicant is ready to co-operate with investigation and submit documents. The applicant was directed to report Investigating Officer on 29th and 30th August 2019 and thereafter as and when called for.

5. Learned counsel for applicant has submitted that false case has been registered against applicant. The complainant does not possess any document with regards to purchasing the shop premises. The husband of the complainant died in 2009. The question which arises is how he had given the shop to his son on leave and license

basis in 2016. The leave and license agreement relied upon by the complainant is forged document. The said document was annexed to the application for obtaining shop and establishment license in the name of son of the complainant in respect to room no.57. The complainant sold her room no.58 to Vanita Dornala on 19th March 2015. The electricity bill of the said room no.45 (new no.58) was transferred in the name of Vanita Dornala. The complainant submitted Gumasta license, electricity bill, Aadhar card and affidavit of Kazi dated 8th August 2000, which was originally for room no.58 and not 57. The Annexure-II issued by Municipal Corporation of Greater Mumbai shows the name of Vanita Dornala in respect of room no.58. The gumasta license was issued in the name of complainant's son. The gumasta license was issued on the basis of electricity bill submitted by the complainant which does not bear the room number. The actual room number was 45 which was sold to Vanita Dornala in 2015. The entire matter relates to documents. The Municipal Corporation of Greater Mumbai has passed order that both were not held eligible. The appeal preferred by complainant's son against the order of MCGM was rejected on 27th September 2018. The letter was issued by Survey Department that room belongs to the applicant. The copy of the letter dated 4th September 2018 has been annexed to the application. The entire matter relates to documents. The applicant relies upon affidavit of Aftab Hanif Khan who has stated that he was authorized to apply for the electricity meter and he obtained documents from the Chairman of Shaktinagar Society.

6. Learned APP submitted that the applicant has not co-operated with investigation. He has not submitted documents.

7. Learned counsel for applicant, in rejoinder, submitted that photocopies of the documents, as alleged by the complainant, were obtained by her from the concerned department. The affidavit relied upon by the applicant mentions that the documents were submitted by Chairman of Shaktinagar Society.

8. It is pertinent to note that both the parties were claiming rights in the property. Both are relying on the documents and it is the contention of both sides that documents relied upon by both the sides are false. The entire case relates to documents. The applicant was granted interim protection on 27th August 2019. Considering the nature of dispute, custodial interrogation of applicant is not necessary. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application No.1872 of 2019 is allowed and disposed of;
- (ii) In the event of arrest of the applicant in connection with C.R.No.123 of 2019 registered with Agripada Police Station, Mumbai, the applicant be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the investigating officer as and when called for.

(PRAKASH D. NAIK, J.)

MST