

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, AT NAGPUR.**

Criminal Application (ABA) No. 86 of 2021

(Pandurang s/o Gajanan Bokade and anr. ..vs.. The State of Maharashtra through P.S.O., P.S.
Nandanvan, Dist. Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. B. L. Borikar, Advocate for the applicants
Mr. M. K. Pathan, APP for the State/non-applicant

CORAM : ROHIT B. DEO, J.

DATED : 24-02-2021

Heard.

2. The applicants are seeking pre-arrest protection in Crime 17/2021 registered with Police Station, Nandanvan, Nagpur for the offences punishable under Sections 406, 409, 419, 420, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code.

3. This Court protected the applicants vide order dated 16-2-2021 subject to the condition that the applicants shall attend the concerned police station as and when directed. It is fairly stated by learned Additional Public Prosecutor Mr. Mehroz Pathan that the applicants were not summoned to appear in the police station.

4. I have perused the material on record with the assistance of learned Additional Public Prosecutor Mr. Pathan.

5. The complainant claims right and interest in Plot 143 admeasuring 1350 square feet situated in the layout of Kamakshi Co-operative Housing Society on the basis of an earnest note dated 18-11-2002.

6. It appears that no sale deed was executed in favour of the complainant pursuant to the alleged earnest note. However, the complainant alleges that a power of attorney was executed in favour of his mother Smt. Kamalabai Gangaramji Muruskar along with a possession letter. The said documents were executed by a person who is referred to as Shankar Mahadevji Thavkar resident of Kujba, Taluka Umrred, District Nagpur. According to the complainant, notwithstanding the earnest note executed by the society in the year 2002, apparently, prior to the execution of the earnest note, the plot was already transferred in favour of Shankar Mahadevji Thavkar in the year 1990 and, therefore, Shankar Mahadevji Thavkar executed the power of attorney and possession letter in favour of his mother.

7. The complainant alleges that it transpired that Plot 143 is sold in favour of co-accused Ramesh Yeshwant Ingale. The sale deed is executed by Shankar Mahadev @ Mangru Thavkar on 17-6-2019. The complainant alleges that the person who executed the sale deed in favour of Ramesh Yeshwant Ingle is not the

person who executed the power of attorney and possession letter in favour of his mother.

8. It appears from record that the investigating agency was not in a position to trace the whereabouts of Shankar Mahadev Thavkar and reasonably suspects that there is no such person in existence, which would imply that the documents executed in favour of the mother of the complainant are also in the domain of suspicion. Be that as it may, insofar as the applicants are concerned, there does not appear to be any direct role which would indicate complicity in offence.

9. Custodial interrogation is not required. The applicants do not have adverse antecedents and do not pose a flight risk.

10. The interim protection granted vide order dated 16-2-2021 is made absolute on the same terms and conditions.

11. The application is disposed of .

JUDGE