

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 140 OF 2021

Amit Motilal Badki

..vs..

State of Maharashtra, thr. P.S.O. and anr.

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

Court's or Judge's orders

Shri J.S. Chilotra, Advocate for Applicant.
Shri H.D. Dubey, A.P.P. for Non-applicants.

CORAM : VINAY JOSHI, J.
DATED : 09/08/2021

Heard.

2. By this application, the applicant is seeking for pre-arrest bail in Crime No.91 of 2016 registered with Imamwada Police Station, District Nagpur for the offence punishable under Sections 406, 465, 467, 468, 471, 420 read with Section 34 of the Indian Penal Code.

3. At the instance of report lodged by the plot purchaser namely Ananta Rahate, the crime was initially registered against three co-accused namely Umakant Mendhe, Narendra Parate and Harshad Chikhale, who were partners of M/s. Gharkul Infratech. It is alleged that M/s Gharkul Infratech was indulging into real estate business. The informant Ananta Rahate has agreed to purchase a plot No.4 in

consideration of Rs.7,50,789/- from M/s. Gharkul Infratech. On the date of agreement dated 18.12.2009, the informant (purchaser) has paid partial amount of Rs.3,00,300/- and accordingly, agreement was executed by the co-accused Umakant Mendhe on behalf of M/s Gharkul Infratech.

4. It is contended that the accused have prepared forged and fabricated documents about recommendation for N.A permission for said entire piece of land bearing Khasara number 116. Particularly, the accused has forged seal and signature of Nagpur Improvement Trust to prepare false document of recommendation for N.A. and accordingly, by use of fraudulent document, obtained N.A. permission from the Collector. On that basis, the vendors (M/s Gharkul Infratech) sold total 59 plots. However, sale-deed was not executed in favour of the informant, hence the report.

5. It is the applicant's contention that he is no way concerned with the alleged transaction. He was merely working as a office boy in the office of M/s. Gharkul Infratech. However, he has been falsely implicated in the case. According to the applicant, his name is not mentioned in the First Information Report, but in the charge-sheet filed against the three co-accused, he was merely cited as a witness. It is submitted that, this Court has granted pre-arrest

protection vide it's common order dated 20.10.2016 to all three co-accused who are named in the First Information Report. It is argued that, till date thrice Police recorded the applicant's statement and therefore, there is no need of custodial interrogation after lapse of five years.

6. The non-applicant/State resisted bail by filing affidavit-in-reply. According to the State, the applicant was working as an agent and used to prepare documents for procuring N.A. Permission. The applicant was specifically entrusted with the work of obtaining N.A. permission for Khasara No.116 on behalf of co-accused. The applicant has prepared entire documents for seeking N.A. permission and submitted them in the office of Collector. Particularly, the applicant had prepared forged recommendation letter of N.I.T. for facilitating grant of N.A. permission. During the course of investigation, the fraudulent act committed by the applicant was unrevealed. The Police recorded various statements which particularly points toward the applicant's active part in preparing forged document of N.I.T. and obtaining N.A. permission by use of such documents.

7. Perused case diary as well as charge-sheet filed against the co-accused. Though the co-accused were protected by this Court, *prima facie*, the allegations levelled against the applicant appears to be

of grave nature.

8. It is the prosecution case that co-accused Umakant Mendhe entrusted entire work of obtaining N.A. permission for Khasara No.116 to the applicant. The applicant undertook said work and has manipulated the documents for obtaining N.A. permission. The State has produced a copy of an agreement dated 05.06.2021 executed in between the applicant and co-accused Umakant Mendhe – a vendor. Recital of said agreement discloses that the land owner Umakant Mendhe has assigned the entire work of obtaining all necessary permissions including N.A. permission to the applicant under the said contract. It bears specific reference that the work of obtaining N.A. permission for Khasara 116 was assigned to the applicant for which consideration of Rs.5 lakhs was fixed. It bears a reference that the applicant was supposed to move the concerned authority for getting permission and he would be responsible for those affairs. Execution of said document has not been denied by the applicant during the course of submission.

9. The Police paper discloses that initially, Umakant Mendhe has applied to the N.I.T. for it's recommendation to obtain N.A. permission, but it was rejected vide it's order dated 17.02.2012. Later on, the said job was assigned to the applicant to obtain

N.A. permission. Admittedly, N.A. permission dated 16.03.2016 came to be withdrawn by the office of Collector, when they came across with the forged recommendation of N.I.T., tendered by the applicant. It is argued that the second application for grant of N.A. permission was in the name of Umakant Mendhe, hence applicant has no role. However, the said submission does not carry any weight. Admittedly, Umakant Mendhe was the owner of the property and job of obtaining of N.A. permission, was specifically assigned to the applicant.

10. During the course of investigation, Police recorded statement of the Officers of N.I.T., who have stated that for grant of N.A. permission forged document showing the recommendation of N.I.T. was submitted. Particularly, the Officer has denied his signature on the recommendation letter. The statement of one Sachin Shinde who was attached to Collector's office, discloses that the applicant was working as an agent and he has tendered N.A. proposal for Khasara No.116 on behalf of Umakant Mendhe. The applicant had submitted requisite documents with the proposal and was taking follow-up of said proceeding. Likewise, the statement of a consulting engineer namely Shri Hitendra Moon, was recorded. It is his contention that the layout map annexed by the applicant for getting N.A. permission, was forged one. He stated that though the concerned

layout plan was shown to be of his Firm. However, it bears forged rubber stamp and his forged signature.

11. *Prima facie*, there is ample material to indicate that the applicant took active part in preparing false and forged document and used the same for the purpose of cheating. The *inter se* agreement dated 05.06.2012 in between the applicant and co-accused Umakant Mendhe *prima facie*, makes it explicit clear that the applicant is a preprator of entire episode. Though, an offence was registered in the year 2016, it does not make any difference. The seal and signature of N.I.T was fabricated to obtain N.A. order, which is an offence against the State. In such matter, thorough investigation is needed to seize the forged and fabricated seal, stamp, letter heads, etc. Unless, the applicant under goes custodial interrogation, the matter could not be investigated in true sense.

12. Having regard to all these facts, it is not a fit case to grant pre-arrest protection. In view of the above, the application carries no merit, hence, rejected.

JUDGE