

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

CRIMINAL APPLICATION (ABA) NO.211 OF 2020

(Sau. Krupa Vikram Shah Vs. State of Maharashtra thr. PSO PS MIDC, Akola, District
Akola)

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

Court's or Judge's orders.

Mr. N.R. Tekade, Advocate for Applicant.
Mr. V.A. Thakare, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 13th JANUARY, 2021.

The applicant is apprehending arrest in Crime 291/2019 registered with the M.I.D.C. Police Station, Akola for offences punishable under sections 406, 420, 467, 468, 471, 201 read with section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report dated 31.12.2019 lodged by Mr. Rajaram Kisan Guthale, the Regional Officer, M.I.D.C., Amravati. The substratum of the report is that in connivance with the officers of the M.I.D.C., the beneficiaries of the crime obtained allotment of plots TA-78, 46-N, 154-N and 160. The present applicant is the beneficiary to whom plot TA-78 which is allotted purportedly by virtue of allotment order dated 11.01.2011.

3. A three member committee was constituted to conduct inquiry into the *prima facie* illegal allotment. The inquiry report concludes that the officers of the M.I.D.C.

illegally and fraudulently transferred/allotted the plots in favour of the beneficiaries.

4. I have perused the material in the case diary and the affidavit in response filed on behalf of the State.

5. I have no hesitation in recording, that there is more than ample material to *prima facie* link the applicant with the crime.

6. While a minute examination of the material on record is not advisable, since brief reasons will have to be indicated, some reference to the incriminating material is inevitable.

7. The crime is committed pursuant to a well thought and cool-headed conspiracy. The material in the case diary reveals that the applicant came to be allotted plot TA-78 without she making payment of a single rupee to the M.I.D.C. The applicant claimed that she made the payment through demand draft 0002302 and 0147206 for Rs.2,50,000/- and Rs.3,00,000/- respectively issued in favour of M.I.D.C. However, there is no record whatsoever of the said payment. In the bank account/s of M.I.D.C. there is no entry evidencing receipt of consideration from the applicant.

8. The submission of the learned APP Mr. Thakare is

that the applicant is one of the masterminds of the crime. The record of M.I.D.C. was tampered with, forged and part thereof is fabricated. The complicity of the applicant in the alleged crime, and the extent thereof, is revealed by the fact that she transferred the plot shown to have been allotted to her, in favour of Mr. Mulji Bhanushali. Perusal of the material in the case diary would reveal that the applicant received Rs.25,00,000/- as consideration and the purchaser Mr. Mulji Bhanushali has disclosed the details of the cheque payment.

9. It is further pointed out that custodial interrogation is imperative. The applicant, is not just one of the beneficiaries. She appears to have played an extremely significant role and the document of allotment in her possession is obviously forged. It would only be custodial interrogation which would give direction to the investigation and all facets of the deep rooted conspiracy will be unearthed. Illustratively, the applicant is in a position to shed light on the identity of the person who forged the document in her favour. Pertinently, the officers whose names are reflected in the document purportedly executed by M.I.D.C. in favour of the applicant have denied that the document bears their signature and have claimed that the document is forged.

10. Mr. Tekade would submit that the applicant has already deposited Rs.5,50,000/- in order to show her

bona fide. I am afraid, the fact that the applicant has deposited Rs.5,50,000/-, out of the Rs.25,00,000/- received by her, cannot possibly be a consideration for exercise of discretion.

11. Mr. Tekade then submits that the applicant is a woman. Be that as it may, a white coloured crime is committed audaciously and pursuant to a criminal conspiracy. The investigation is bound to suffer if the Investigating Officer is denied the opportunity to arrest and custodially interrogate the applicant. It is too well known that the quality of elicitation of material in custodial interrogation is different than the elicitation when the accused is armed with the protective umbrella of pre-arrest protection and is secure and complacent in the belief that come what may she would not taken in custody. The fact that the applicant is a woman, cannot be a ground to bestow any special consideration, particularly considering that the allegations are extremely serious and if the applicant is ultimately convicted, the punishment may extent to life sentence.

12. In my considered view, no case is made out for exercise of discretion, particularly since the prosecution has to unearth the various aspects of the crime and further has to recover the forged document, of which presently only a photocopy is available.

13. The application is dismissed.

JUDGE

NSN