

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.85 OF 2022

Pravin @ Ganesh Ashok Zinje

...APPLICANT

VERSUS

The State of Maharashtra

...RESPONDENT

...
Mr.Narayan B. Narwade Advocate for Applicant.
Mr.A.M. Phule, A.P.P. for Respondent-State.
...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 9th FEBRUARY, 2022

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.5 of 2022 registered with Tofkhana Police Station, Ahmednagar for the offence punishable under Sections 420, 465, 471 read with Section 34 of the Indian Penal Code.
2. Heard learned Advocate for the applicant and learned APP for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the applicant had purchased the property from Bhumayya Minayya Kurapatti. That property is plot No.65 situated in proposed Bhavna Rushi Gruh Nirman Sanstha. He has purchased it on 13th February 1996 for an amount of Rs.45,000/- and he has sale receipt in his favour. The secretary of the society has given it on stamp paper on 7th January 2015 that the transaction between the present applicant and original owner Bhumayya Minayya Kurapatti is genuine. The applicant has paid the tax and receipts and certificates were issued in his favour and thereafter the applicant had sold the said plot on 13th March 2015 to one Jayashri Sunil More. That sale receipt is also produced. In spite of these facts the informant has come with the case that the sale receipt in favour of the present applicant is bogus. It appears that the civil dispute has been tried to be given a criminal angle. At no point of time there was scope for cheating by the present applicant to the informant. Therefore, the interim protection granted earlier, deserves to be confirmed.

4. Per contra, the learned APP strongly opposed the application and submitted that the First Information Report has been filed by one Ganesh Narayan Waman stating that he had

purchased Plot Nos. 64, 65 and 66 from Survey No.238/1, 238/2 and 239 on 29th July 2019 from Ramesh Bhumayya Kurapatti and Ganesh Bhumayya Kurapatti by executing sale receipt for consideration of Rs.5,00,000/-. When he had gone to one Gangadhar Khandagale for payment of tax, it was told to him that Plot No.65, which was standing in the name of the applicant, from whom Jayashri Sunil More has purchased it on 13th March 2015. He has been therefore, cheated. Forged documents appears to have been created and therefore, physical custody of the applicant is necessary.

5. At the outset, it can be seen that none of the parties have entered into a registered document of sale deed. How this is permissible and how they can be allowed to evade the stamp duty, is a question. The second point is whether on the basis of sale receipt (not sale deed) it can be said that title has been received by any one of them, is also a question. However, as regards the present applicant is concerned, he has produced photocopy as well as contended that he has the sale receipt executed in his favour from Bhumayya Minayya Kurapatti on 13th February 1996. The society members also appear to have accepted his transaction and thereafter by documents they have

transferred the plot in the name of the present applicant and they have also then accepted the transaction between applicant and Jayashri Sunil More. What preliminary inquiry was made by the informant before he allegedly purchased the plot from his vendors, is not clarified by the informant. If he had not taken proper precautions and had not made inquiry, then there is no question of cheating him.

6. Another important fact is that the entire First Information Report does not say that there was any kind of communication or representation by the present applicant to the informant. There was no proximity between them. Under such circumstance, how the applicant could have cheated the informant, is a question. Therefore, when civil transaction has been moulded in criminal, the present applicant deserves to be granted protection. This Court had earlier protected the applicant by grant of interim protection on 25th January 2022, which deserves to be confirmed. Hence the following order:-

ORDER

- i) Application stands allowed.

ii) The interim protection granted to the applicant by this Court vide order dated 25th January 2022 stands confirmed. It is clarified that in the event of arrest of applicant - Pravin @ Ganesh Ashok Zinje in connection with Crime No.5 of 2022 registered with Tofkhana Police Station, Ahmednagar for the offence punishable under Sections 420, 465, 471 read with Section 34 of the Indian Penal Code, he be released on bail on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.

iii) Applicant shall attend Tofkhana Police Station, Ahmednagar on every Monday between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

iv) Applicant shall not tamper with the evidence of the prosecution in any manner.

v) Applicant shall not indulge in any criminal activity.

[SMT. VIBHA KANKANWADI , J.]