

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

12 ANTICIPATORY BAIL APPLICATION NO.345 of 2020

ABHIJIT POPAT REPALE

VERSUS

THE STATE OF MAHARASHTRA

...

Mr. Z.H. Farooqui, Advocate h/f Mr. N.V. Gaware, Advocate for the applicant
Mr. A.M. Phule, APP for the respondent

...

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 17th JANUARY, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.106/2020 dated 04.02.2020 registered with Shrigonda Police Station, Dist. Ahmednagar, for the offence punishable under Section 420, 465, 466, 467, 468, 471 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. Z.H. Farooqui holding for learned Advocate Mr. N.V. Gaware for the applicant and learned APP Mr. A.M. Phule for the respondent.

3 It has been vehemently submitted on behalf of the applicant that

the applicant has been falsely implicated and his signatures have been forged on the document dated 24.08.2015, which is in the nature of Power of Attorney and agreement to sell executed between Subhash Arjun Pawar and Balwantrao Dhamdhere and Nalinibai Khaserao Wabale in respect of land bearing Gat No.728 admeasuring 01 H 32 R of village Belwandi (Bk), Tq. Shrigonda, Dist. Ahmednagar. Though the said document alleged to have been executed on 24.04.2015, the First Information Report has been lodged on 04.02.2020. That means, it is belated by at least four years. The contents of the First Information Report would show that co-accused had fled. Major role in getting the property of trust by name 'Anjanabai Bhikajirao Dhamdhere Trust' transferred in the name of Bhikajirao Dhamdhere and Nalinibai Wabale. When the signature of the present applicant itself is forged, his custodial interrogation is not necessary. Further, it can be seen from the documents that one Ramdas Thorat and Kishor Pawar had signed those documents as witnesses as regards identification before Sub-Registrar, Shrigonda. Applicant was never present before the Sub-Registrar and had not actually identified any party. The signature of the applicant on both the documents is of no consequence, as those documents were never used for the purpose of identification. If the signature of the applicant on admitted documents is compared with the disputed documents, then, the forgery can come to light. The custodial interrogation of the applicant is not at all

necessary. He is ready to abide by the terms of the bail.

4 The learned APP has strongly opposed the application and submitted that all the documents are important, when it comes to a transaction regarding land. Lands in Shrigonda taluka are fetching high price and, therefore, such offences do take place. Contents of the First Information Report would show that in order to grab the property of a Trust, all the documents have been tried to be corrected. One Subhash Arjun Pawar has been shown to be cultivating the land since last 15 years. The Naib Tahsildar has, in fact, taken note that all the Trustees have died and those Trustees who have been replaced were educated; yet, their thumb marks have been taken. A document of agreement to sell without possession is stated to have been executed on 18.04.2015 by said Subhash Arjun Pawar to Sarlabai Ganpat Kale, Sahebrao Narayan Nalge and Nanasaheb Anandrao Gaikwad. Those Trustees had expired, but by placing their vague photos and thumb marks the said document has been got registered with Sub-Registrar. Thereafter, a sale deed came to be executed for a consideration of Rs.7,75,000/- and it is all being done by Subhash Pawar. Even account has been opened with Balaji Nagri Sahakari Patsanstha Maryadit, Shrigonda in the name of a dead person. As regards the present applicant is concerned, he was the witness to the declaration form as well as agreement to sell, including irrevocable Power of

Attorney. It is stated to have been executed by one Bhikajirao Balwantrao Dhamdhere on 27.04.2015. However, in fact, the said Bhikajirao Dhamdhere expired on 07.01.1977 itself. All the forged documents have been created and on the basis of those forged documents loan has been taken in lacs of rupees. Therefore, custodial interrogation of the applicant is necessary.

5 At the outset, the First Information Report lodged by one Chandrakant Kashinath Dhamdhere, who is the Secretary of late Anjanabai Bhikajirao Dhamdhere Trust, Ahmednagar, is self explanatory, as to how the transactions have been born and which documents have been got executed. As regards the present applicant is concerned, it is stated that he has signed on documents dated 24.07.2015, which is stated to have been executed by Bhikajirao Balwantrao Dhamdhere. There is mention of name of Nalinibai Khaserao Wabale. But it is stated that fake photos of both of them have been annexed and it has signatures of the person getting it executed i.e. Subhash Arjun Pawar and along with the present applicant one Ansar Munir Shaikh has signed it as witness. Bhikaji expired on 07.01.1977 itself. The line of the offence can be seen that even the election cards of those two persons, who had expired long back, have also been prepared. On the basis of the agreement to sell thereafter sale deed has been got executed. Therefore, the rights have been created on the basis of those documents, to which the

present applicant is stated to be the signatory. His defence that his signature has been forged cannot be considered. Because, that will have to be proved by him at the time of trial. What is apparent is that it bears signature of present applicant. When Trust property has been grabbed, then, extraordinary powers of this Court cannot be exercised in favour of the applicant. Application stands rejected.

(Smt. Vibha Kankanwadi, J.)

agd