

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.427 OF 2022

SHRIKANT CHANDRASHEKHAR HIREMATH

VERSUS

THE STATE OF MAHARASHTRA

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Mr. Satej S. Jadhav, Advocate for applicant.
Mr. V. S. Badakh, APP for the respondent – State.

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CORAM : SMT. VIBHA KANKANWADI, J.

Reserved on : 27.04.2022

Pronounced on : 06.05.2022

ORDER :-

. The applicant is apprehending his arrest in connection with Crime No.89 of 2022 registered with Shivaji Nagar Police Station, Dist. Latur for the offences punishable under Sections 420, 465, 468, 471 of Indian Penal Code and under Section 82 of the Indian Registration Act, 1908.

2. Heard learned Advocate Mr. Satej S. Jadhav for the applicant and learned APP Mr. V. S. Badakh for the respondent – State.

3. It has been vehemently submitted on behalf of the applicant that the Assistant Sub Registrar Class-II, Latur has lodged the FIR contending that he had received a letter from Sub-Divisional Officer, Latur to

register the offence under Section 83 of the Indian Registration Act. Similar directions are also given to him by Joint Deputy Registrar Class-I, Latur. It was in view of the fact that the authorities had noticed some scoring and changes in N.A. order of Sub-Divisional Officer dated 11.10.2010, which was appended at the time of registration of two documents pertaining to the sale of two plots sold by the present applicant, who is the proprietor of M/s. Hiremath Developers. It was then stated that the original order granting N.A. was in respect of 46 plots only, whereas the fabricated documents show that sanction has been given to 59 plots. The applicant says that only 11 plots have been sold up till now either it is 46 or 59 and rest are yet to be sold. Therefore, there is no question of cheating by the applicant to anybody. The applicant himself had purchased the agricultural land bearing Gut No.71 admeasuring 4 Acre 20 R for a consideration of Rs.17,11,000/- from one Narayan Nivrutti Koli. The copy of the sale-deed has been produced. The applicant is a developer and, therefore, his employee went to Sub-Divisional Officer's office for getting the land converted from agriculture to non agriculture. At that time, it was informed by the Tehsil office that already temporary N.A. order has been given in the name of the vendor. Therefore, from the vendor, the order was tried to be taken. In fact, the vendor had never disclosed to the applicant that

he had applied for conversion of his land to non agriculture and he had not handed over the said order in original form to the applicant. After demand, only a photocopy was given which was then annexed by the present applicant to the sale of those two plots. After getting noticed the obstructions and the resistance, the applicant has approached the Civil Court by filing Regular Civil Suit against the Collector as well as his vendor. Show cause notice was issued by 6th Joint Civil Judge Senior Division, Latur by order dated 22.07.2021. It is also to be noted that if such order was in existence, why the vendor had not disclosed it is a question because the said order would have fetched him good amount and he would not have sold the land by saying that it is only for agriculture purpose. Now, it appears that the vendor has change his stand and says that he had never applied. Even if for the sake of arguments we take the case as it is, yet the custodial interrogation of the applicant is not necessary. The applicant is ready to abide by the terms of the bail.

4. Per contra, the learned APP strongly opposed the application and submitted that the original N.A. order is yet to be recovered. The vendor of the applicant has clearly stated in his statement under Section 161 of the Code of Criminal Procedure that he had never applied for getting his land converted to non agriculture. There is no question of either grant of

N.A. order for 44 plots or 59 plots. By showing 15 more plots as sanctioned, the applicant had intention to sell them out. He has prepared a fake layout and, therefore, his intention to cheat the Government is clear. He does not deserve to be released on bail.

5. At the outset, it is to be noted that the FIR is lodged by a third person, who is the Government servant. He has stated in his FIR that the copy of the N.A. order dated 11.10.2010 appended to the two sale-deeds executed by present applicant in favour of two persons is fake. It is rather stated that changes have been made in the original and then a fake document has been prepared. The police papers would also show that the N.A. order passed on 11.10.2010 in respect of 44 plots is stated to be genuine document. The said order was passed by the concern authority i.e. Sub-Divisional Officer, Latur on 11.10.2010. The copy of the sale-deed between the applicant and vendor Narayan Koli is dated 27.10.2010. As per the provisions of Transfer of Property Act, it is the duty of the vendor to disclose all the facts to the purchaser and handover all the documents in respect of the immovable property under sale. If we consider the sale-deed of the agricultural land, it does not make mention that the vendor had applied for converting it into non agriculture. If that document would have been shown to the applicant, then in fact the vendor could have got more rate, still the vendor had

not taken steps to disclose such order. Now, he says that he never applied. In fact, on the order dated 11.10.2010, what we could get is that there was application by Narayan Koli. The date of the application has not been mentioned, however reference has been made of the communication from Town Planner, Latur dated 21.09.2010. That means, application was filed prior to 21.09.2010. At that time, atleast the present police papers do not show that the applicant was in picture. Therefore, the question on the basis of statement of Narayan Koli under Section 164 of Code of Criminal Procedure is as to who had filed that application for conversion and still the authorities are holding that said N.A. order in respect of 44 plots is genuine. The authority says that the order for 59 plots is fake. If the original was not handed over by Narayan Koli to the applicant, whether there could be a scope for the applicant to prepare a false document. The informant, who is a Sub-Registrar could have undertaken an inquiry and called upon Narayan Koli to produce the original document of N.A. order, but it appears that he had not done the said act. Under such circumstance, the custodial interrogation of the applicant is not required. He can be made available for investigation and directions can be given to co-operate with the investigation. Hence, the following order :-

ORDER

- I) Application is hereby allowed.
- II) In the event of arrest of applicant – Shrikant Chandrashekhar Hiremath in connection with Crime No.89 of 2022 registered with Shivaji Nagar Police Station, Dist. Latur for the offences punishable under Sections 420, 465, 468, 471 of Indian Penal Code and under Section 82 of the Indian Registration Act, he be released on P. R. Bond of Rs.50,000/- with two solvent sureties of Rs.25,000/- each.
- III) The applicant shall remain present before the Investigating Officer on every Monday and Friday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- IV) He shall not tamper with the evidence of the prosecution in any manner.
- V) He should cooperate with the investigation and produce all those documents, which are directed to be produced by the Investigating Officer.

[SMT. VIBHA KANKANWADI, J.]

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