

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

ANTICIPATORY BAIL APPLICATION NO. 472 OF 2022

Sanjay Padmakar Darandale
Age: 52 years, Occu: Agril.,
R/o. Landewadi, Tal-Newasa,
Dist. Ahmednagar

... Applicant
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Inspector,
Sonai Police Station,
Tal. Newasa, Dist. Ahmednagar

... Non-Appllcant

**WITH
ANTICIPATORY BAIL APPLICATION NO. 446 OF 2022**

Bharat s/o Tukaram Darandale
Age: 47 years, Occ. Agri.,
R/o. Landewadi, Tq. Newasa,
Dist. Ahmednagar

... Applicant
(Orig. Accused)

Versus

The State of Maharashtra
Through Police Station Officer,
Sonai Police Station,
Tq. Newasa, Dist. Ahmednagar

... Respondent

....

Mr. K. N. Shermale, Advocate for applicant in ABA No.472/2022
Mr. R. R. Karpe, Advocate for applicant in ABA No.446/2022
Mrs. Geeta L. Deshpande, APP for respondent – State
Mr. Amol S. Gandhi, Advocate for original informant

....

CORAM : R. G. AVACHAT, J.

DATED : 27th APRIL, 2022

PER COURT :-

. Both these applications filed under Section 438 of the Code of Criminal Procedure, are being decided by this common order, since the applicants therein claimed to have apprehension of being arrested in connection with one and the same crime i.e. Crime No.0030 of 2022, registered with Sonai Police Station, Sonai, Taluka Newasa, District Ahmednagar for offence punishable under Sections 420, 468, 471 r/w 34 of the Indian Penal Code.

2. First Information Report (FIR) has been lodged on 24.01.2022. It is alleged therein that the informant was the resident of village Sonai, Taluka Newasa, District Ahmednagar. His son and daughter-in-law are in abroad. Land bearing Gut No.150, 01 Hectare 43 Are, stands in the name of son and daughter-in-law of the informant. Both of them had executed a power of attorney in favour of the informant in connection with the land Gut No.150. It is further averred that the informant sold the land Gut No.150 to Advocates Prafulla Ramrao Jadhav and Bharat Ramrao Jadhav (brothers) and Padma Ramrao Jadhav in March 2020. Since then, Jadhavs have been in possession of the land. The informant learnt

that theft of standing sugarcane in said land was committed and therefore, crime was registered. The informant was told by Advocate Bharat Jadhav that the applicant Sanjay (ABA No.472/2022) filed a notarised document in a proceeding, for anticipatory bail, pending before the High Court, Bench at Aurangabad. A copy of the said document was sent to the informant. On having inspected the said document, the informant realised the same to have been forged one. He, therefore, lodged the FIR against applicant Sanjay and others two who are shown to have attested the said document. One of them is the applicant in ABA No.446 of 2022. The crime therefore came to be registered against them.

3. Heard.

Shri K. N. Shermale, learned Advocate would submit that the informant is a money lender. The land Gut No.150 originally belonged to applicant Sanjay. It was ostensibly sold to the informant with an implied condition, to return it back to Sanjay on payment of amount received as a hand loan. Even pursuant to the said transaction, the informant returned major portion of the land by executing a sale-deed on accepting Rs.51,00,000/- (Rupees Fifty One Lakh). The applicant himself had realised the notarised document in

question to have been forged by the informant himself and he, therefore, approached the Superintendent of Police complaining the same. According to the learned Advocate, the applicant Sanjay and his family members have never lost possession over the land in Gut No.150 since it was a transaction of mortgage. Under the alleged forged document, the applicant Sanjay is shown to have parted with a sum of Rs.15,00,000/- (Rupees Fifteen Lakh). As such, it is the applicant Sanjay who is the victim of the crime in question. According to him, in a crime registered for theft of sugarcane in land Gut No.150, the Hon'ble Apex Court has granted protection to the accused persons (family members of Sanjay). It is also brought to the notice of this Court that applicant Sanjay himself has filed application against the informant in the Court of Judicial Magistrate First Class, Newasa, under Section 156(3) of Cr.P.C. The prayer therein is to register a crime against the informant himself for having forged the document in question. It is also the case of the applicant Sanjay that due to harassment by the informant, Sanjay had consumed poison to commit suicide. Fortunately, he has been survived. According to the learned Advocate, the offence pertains to a document. The document is very much available with the

Investigating Officer. Custodial interrogation of applicant Sanjay is therefore not warranted. He, therefore, urged for grant of the application.

4. Shri Rahul R. Karpe, learned Advocate for the applicant in ABA No.446 of 2022 would, on the other hand, submit that this applicant is attesting witness to the document. He did not know the contents therein. While it was being executed, he signed the document at the instance of co-accused Sanjay. He, therefore, urged for grant of application.

5. The learned APP and the learned Advocate appearing for the informant would submit that no sooner the informant realised the document to have been forged, he approached the concerned police station on 22nd December, 2021 itself. If the document is perused, the informant is at the receiving end. It is he, who is going to suffer. How could he therefore executed such a document. It was also submitted that the Notary public before whom the document is shown to have been executed, had passed away six months before the date of execution of the said document. The same itself suggests to have been forged one. To top it the said document was produced

before the Hon'ble High Court in a proceeding for seeking anticipatory bail. As such, a fraud has also been practiced on the Court. The learned Advocate, therefore, urged for rejection of the applications.

6. Considered the submissions advanced. Perused the documents relied on. There is a document dated 21st December, 2021, indicating the informant to have immediately lodged complaint against applicant Sanjay and others with Sonai Police Station for an offence pertaining to forgery of a valuable security. Delay, if any, that too of a few days in approaching to the concerned police station to lodge FIR would therefore be of a little consequence. There is *prima-facie* nothing to indicate that the transaction between the informant and applicant Sanjay was that of a mortgage. A copy of the document which is said to have been forged, is on record. It is shown to have been executed on 14.11.2017. There is no dispute that the Notary public (Advocate Devidas Latkar) before whom the said document is shown to have been notarized, had passed away six months before the day on which the document is shown to have been executed. As such, there is no doubt that the document is forged one. The document is shown

to have been executed between the informant and applicant Sanjay. A document is shown to have been executed by the informant Rajendra in favour of applicant (accused Sanjay). The recitals therein are to the effect that the informant is shown to have admitted/acknowledged that the sale-deed executed between the two, to be in the nature of a mortgage. The informant is shown to have admitted to have agreed to re-transfer the land to applicant Sanjay. Recitals of the document further state that the informant acknowledged the applicant Sanjay to have all along been in possession of the land, meaning thereby he did not part with the possession in favour of the informant under the sale-deed. The recitals further indicate that the informant has acknowledged to have received a sum of Rs.15,00,000/- (Rupees Fifteen lakh), while a sum of Rs.10,00,000/- (Rupees Ten Lakh) is shown to have been outstanding. These recitals in the document undoubtedly indicate that applicant Sanjay is a beneficiary thereunder.

7. Admittedly, the informant had sold the land to Jadhav brothers. It is informed by the learned Advocate that Jadhav brothers purchased the property in dispute. According to him, since the land had all along been in possession of Sanjay, there is no question of

theft of sugarcane therein. This is different issue. The fact remains that the document titled as “Sammati Patra” dated 14.11.2017, is in the nature of a valuable security shown to have been executed by the informant in favour of the applicant Sanjay. It is further shown to have been executed before an Advocate Notary public, who had already passed away six months there-before. To top it, this document was placed in a proceeding before the Hon’ble High Court, by the applicant Sanjay himself for securing anticipatory bail. The same suggests that the fraud has also been practiced on Court for securing pre-arrest bail in some other crime. That time, only the present offence in question came into light.

The applicant Sanjay is not a rustic illiterate person. He is a Chairman of Vividh Karyakari Seva Society and Deputy Sarpanch of the village, as well. His involvement in a serious offence is writ large. In view of this, he is not entitled for pre-arrest bail. The applicant Sanjay is not innocent.

8. So far as regards applicant Bharat Darandale is concerned, he is an attesting witness to the forged document. Legal position is very clear that a witness is not supporting to know contents of the document. He has attested as a witness. It is his case

that he attested the said document at the instance of applicant Sanjay. Bharat is not beneficiary under the document.

9. Considering all these facts, this Court is inclined to grant him (Bharat Darandale), anticipatory bail. In the result, both the applications are disposed of in terms of following order.

ORDER

- (i) Anticipatory Bail Application No.472 of 2022 is rejected.
- (ii) Anticipatory Bail Application No.446 of 2022 is allowed.
- (iii) In the event of arrest of the applicant in Anticipatory Bail Application No.446 of 2022 i.e. Bharat Tukaram Darandale, in connection with Crime No.0030 of 2022, registered with Sonai Police Station, Sonai, Taluka Newasa, District Ahmednagar for offence punishable under Sections 420, 468, 471 r/w 34 of the Indian Penal Code, be released on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.

- (iv) The applicant Bharat shall not tamper with the prosecution evidence and shall attend the concerned police station as and when called.

[R. G. AVACHAT, J.]

SMS.