

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.760 OF 2022

ALLAUDDIN KHALIL QURESHI
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Swapnil S. Dargad
APP for Respondent : Ms. V. S. Choudhari
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CORAM : S. G. MEHARE, J.

DATE : 25-08-2022

PER COURT :-

1. Heard the learned counsel for the applicant and the learned A.P.P. for the respondent/State.

2. The applicant is claiming to be a partner with M/s. Rafiq Steel. M/s. Rafiq Steel executed an agreement to purchase the scrap material. As per the agreement, the earnest amount of Rs.32,40,000/- was paid to Vilas Nikat. That amount was transferred to the bank account of Vilas Nikat. An unique contract was executed that as per the agreement Vilas Nikat has transferred the field of Mirajgaon, which was in the name of Nirmalabai Hirachand Gandhi in favour of the applicant and another partner. Accordingly, the sale deed was executed on 04.11.2019. The applicant has transferred the amount of

Rs.10,00,000/-. He agreed that he has recovered total amount of Rs.10,40,000/-. The sale deed was executed conditionally. It was agreed that after completing the scrap contract, the applicant and his co-partner would re-execute the sale deed. On the above premise, the sale transaction was done. The applicant was not knowing Nirmalabai Hirachand Gandhi, who was the true owner of the land. However, said Vilas Nikat introduced lady as Nirmalabai Hirachand Gandhi. She was not the true owner, but it was subsequently transpired that the lady who had executed the sale deed was the mother-in-law of Vilas Nikat.

3. The learned counsel for the applicant has vehemently argued that Vilas Nikat has played fraud with the applicant and executed a false and bogus sale deed by impersonation. The applicant trusted him and entered into the contract. The applicant has suffered the huge monetary loss. The true owner Nirmalabai lodged the report against the applicant and many other persons. The applicant was *bona fide* purchaser and he has done the transaction believing in Vilas Nikat. He would also argue that the same transaction has been done by Vilas Nikat and he sold the same land to another person also. The applicant had paid the money. But, Vilas Nikat pretended him that fake Nirmalabai signed the document as the true owner. The true owner Nirmalabai has filed suit for cancellation of sale deed. In fact, the applicant has been cheated, but it has been unnecessarily facing the allegation

of cheating, etc. Nothing is to be recovered from the applicant. Therefore, anticipatory bail may be granted to the applicant.

4. The learned A.P.P. has opposed the application contending that the offence is serious. The applicant has purchased the field without verifying the fact. The applicant is in collusion with Vilas Nikat. Nirmalabai was the true owner and was never the partner of Vilas Nikat. A poor lady has been put the loss and she now knocked the doors of the Court of law to recover her property. The custodial interrogation of the applicant is necessary.

5. Perused the papers placed on record by the applicant and agreement between the partner of the applicant and so-called Vilas Nikat. It reveals that the sale transaction was done as a security and it was a conditional sale to re-transfer after completing the contract of scrap. The money has been transferred through the bank. It was Vilas Nikat, who introduced a lady Nirmalabai. It has been specifically transpired that Nirmalabai was not the true owner but mother-in-law of Vilas Nikat. Considering the documents placed on record, more particularly, the agreement to sell the scrap, it appears that Vilas Nikat was the key person, who introduced a fake lady and got executed the sale transaction. So far as the consideration is concerned, the applicant has paid the consideration through bank. That amount has also been received by Vilas Nikat. The applicant might have committed the

mistake in not verifying the document, but it seems that there was a contract with Vilas Nikat and he introduced Nirmalabai. In ordinary course, the applicant believed him. It is not case that the applicant has not paid consideration towards said transaction. Vilas Nikat was the person who was knowing the fact that Nirmalabai who executed the sale deed is a fake lady. Taking the facts into consideration, the Court is of the view that the applicant may not be sent for custodial interrogation and he is entitled to anticipatory bail. Hence, the following order :-

- i) The application is allowed.
- ii) In the event of arrest, applicant Allauddin Khalil Qureshi be released on bail, on furnishing PB and SB of Rs.50,000/- with one solvent surety of like amount, in C.R. No. 63 of 2020, registered with Police Station Karjat, District Ahmednagar, for the offence punishable under Sections 420, 465, 467, 468, 471, 472, 120B read with Section 34 of the Indian Penal Code; on the condition that to attend the police station as and when called by the Investigating Officer on written notice.

**(S. G. MEHARE)
JUDGE**

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