

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.791 OF 2020

Anna Margu Chougule

...Applicant

vs.

The State of Maharashtra and Others

...Respondents

Mr. Niranjan Mundargi i/b. Mr. S.D. Charan, for the Applicant

Mr. Y.Y. Dabake, APP, for the State.

Mr. S.N. Biradar, for Respondent No. 2.

CORAM : N. J. JAMADAR, J.

DATE : JUNE 20, 2022

P.C.:

1. Apprehending arrest in C.R. No. 1463 of 2020 registered with Sahakar Nagar police station, Pune for the offences punishable under sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 the applicant has preferred this application for pre-arrest bail.

2. The gravamen of indictment against the applicant is that the land admeasuring 21.32 R, Gut No. 388 situated at Gorhe Budruk is the ancestral property of Manisha Khirid (the first informant). Her father Krushna Khirid was the holder of the said land. Whilst Krushna Khirid was bedridden, the applicant, in the capacity of a Power of Attorney of Dadasaheb Kondke, purchased the said land by impersonating the deceased father of the first informant. Though the conveyance was said to have been executed in the year 1993 yet

it came to be registered in the year 1997. On the basis of the said fraudulent instrument, mutation entry No. 1452 came to be certified and, thus, the applicant committed offences punishable under sections 420, 465, 467, 468 and 471 of the Penal Code.

3. On 4th November, 2020, this Court by a reasoned order was persuaded to grant interim pre arrest bail observing, inter alia, as under:-

2] Mr. Mundargi has relied upon the pivotal document in the whole transaction i.e. the Sale Deed dated 30/08/1993. The purchaser of the said land is one Dadasaheb Kondke through the present Applicant Anna Chougule, the Power of Attorney holder and the father of the Complainant Krishna Bhairu Khirid and the Consensor is Yashwant i.e. the brother of the Complainant. The property is sold for a consideration of Rs.30,000/-. The description of the property is to be found in paragraph 1 of the said document and described it to be admeasuring 21.33 Ares of Gat No.388. The stamp affixed on the document reveals that it has been allotted document No.3187 by the Deputy Sub Registrar and it is presented on 30/08/1993 at 4.45 p.m. The document, however, secured the registration vide No.1948 in the year 1997. It is the case of the Complainant that her brother had constructed a house on the said property and it is standing on the said plot of land. It appears that there was litigation pending as regards the Mutation Entry and in the year 2020, the mutation entries are recorded in the name of Complainant. As regards the Sale Deed, no civil suit has been instituted by any of the parties. It is settled position of law that the mutation entries do not render any title but are merely revenue entries for physical purposes.

3] The Applicant is the Power of Attorney holder of the purchaser of the said land vide the said Sale Deed in question. The interrogation in this aspect is very much necessary but since it flows from the documents, at this stage, custodial interrogation can

be avoided provided the Applicant is ready and willing to cooperate with the Investigating Agency. On an assurance that the Applicant will cooperate with the Investigating Agency, by way of interim protection, the following order is passed.

4. The learned counsel for the applicant submitted that the applicant has attended the police station and rendered requisite cooperation in the investigation. The offence revolves around the documents. The role attributed to the applicant is that of being a Power of Attorney of the purchaser. It was further submitted that Yashwant Khirid, the brother of the first informant and son of the deceased vendor Krushna Khirid, was a witness to the instrument which was allegedly forged. In any event, after the subject land changed hands, the legal representatives of the deceased Krushna have executed a registered instrument in favour of M/s.Life Time Resort, the ultimate transferee. Thus, at this stage, the custodial interrogation of the applicant is not warranted.

5. The learned App resisted the prayer on the ground that the original Power of Attorney has yet not been recovered. It was further submitted that the applicant was only authorized to purchase the property on behalf of Dadasaheb Kondke and not empowered to transfer those properties. In breach of the said direction, the applicant has transferred the subject land.

6. I have carefully considered the allegations in the first information report and the material available on record. The instrument in question appears to have been executed and presented for registration on 30th August, 1993 itself, though it was eventually registered in the year 1997. Yashwant Khirid, the son of the original holder, Krushna Khirid appears to have signed as a witness to the said Sale Deed. The facts of execution and presentation of the instrument for registration are borne out by the intrinsic evidence of the said instrument.

7. I find substance in the submission of the learned counsel for the applicant that, at this length of time, when the subject land changed hands, the title deed and the relevant documents also changed hands. The non production of Power of Attorney, therefore, at this stage, can not be a ground for insisting for the custodial interrogation of the applicant.

8. Indisputably, the offence revolves around the documents. The property has also changed hands pursuant to execution of the instruments subsequent to the instrument, which is alleged to have been forged. Prima facie, it seems that the ultimate transferee M/s. Life Time Resort has also obtained a confirmation deed from the legal representatives of the deceased holder Krushna Khirid, including Yashwant.

9. In view of the aforesaid development in the intervening period, since the release of the applicant on interim pre-arrest bail, I am impelled to hold that the custodial interrogation of the applicant is not warranted. The applicant seems to have roots in society to bind him down to his place of abode. Possibility of fleeing away from justice seems very remote. For the foregoing reasons, I am persuaded to confirm the order of interim pre-arrest bail. Hence, the following order.

ORDER

- 1] The application stands allowed.
- 2] The order of interim pre-arrest bail dated 4th November, 2020 stands confirmed on the terms and conditions incorporated therein.
- 3] The applicant shall regularly attend the proceedings before the jurisdictional Court.

(N. J. JAMADAR, J.)