

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1787 OF 2021

Deepak Harishchandra Chavan ...Applicant

Versus

The State of Maharashtra & anr. ...Respondents

Mr. Amit Icham, for the Applicant.

Mr. P. H. Gaikwad, APP for the State.

Mr. Satyavrat Joshi, a/w Sunil Kamble, for Respondent no.2.

CORAM: N. J. JAMADAR, J.

RESERVED ON : 14th JULY, 2022

PRONOUNCED ON: 25th JULY, 2022

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. This is an application for pre-arrest bail in connection with CR No.175/2021, registered with Sahakarnagar Police Station, District Pune, for the offences punishable under Sections 420, 465, 467, 468, 471, 474 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").

3. Kavita Rahul Jadhav (the first informant) lodged a report with the allegations that co-accused Rahul Jadhav, her husband, with whom she had marital discord, forged a Power of Attorney by impersonating her and on the strength of the said Power of Attorney got executed four registered instruments i.e.

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Gift Deeds, whereby three flats situated at Sai Residency at Ambegaon, Taluka Haveli, District Pune, and a shop situated at Gulabkunj, Ambegaon, Taluka Haveli, were shown to have been gifted by the first informant to Rahul Jadhav, accused no.1. The forged Power of Attorney was got executed by impersonating the first informant. Co-accused Neelam Patil allegedly impersonated the first informant. The applicant had identified the said impostor as the first informant. Advocate Pradip Jadhav, another co-accused, who had allegedly prepared the forged instrument and the Gift Deeds was also implicated.

4. Apprehending arrest the applicant preferred this application for pre-arrest bail. Principal accused Rahul Jadhav, the husband of the first informant had also preferred Anticipatory Bail Application No.1786 of 2021. Having regard to the fact that the offences had their genesis in the matrimonial dispute between the principal accused Rahul Jadhav and the first informant, this Court was persuaded to grant interim pre-arrest bail on the condition of cooperating with the investigation and not tampering with prosecution evidence.

5. Anticipatory Bail Application No.1786 of 2021, preferred by Rahul Jadhav, the principal accused, who is the friend of the applicant, eventually came to be rejected by this Court by order

dated 8th October, 2021. In the said application co-accused Rahul Jadhav had shown willingness to set the clock back i.e. cancel all the transactions and re-convey the property in favour of the first informant. Subsequently, co-accused Rahul Jadhav sought leave to be relieved of the said statement and not to pursue the application on merit as he desired to surrender before the police. Recording the said statement, the application came to be dismissed. Nonetheless, the Court considered the application on merits and observed that even on merits the application deserved to be rejected.

6. It would be contextually relevant to note that co-accused Neelam Patil, who impersonated the first informant, and Mr. Pradip Jadhav, who had prepared the alleged forged instrument, came to be arrested in the intervening period.

7. Mr. Icham, the learned Counsel for the applicant, submitted that the investigation is practically complete. With the arrest of the co-accused Rahul Jadhav, Pradip Jadhav and Neelam Patil, the investigating agency had adequate opportunity to carry out the investigation into the offences, which revolve around the documents. The role attributed to the applicant is only that of being a witness, who identified the executant of the allegedly forged Power of Attorney. Thus, at this length of time,

according to Mr. Icham, custodial interrogation of the applicant is not warranted.

8. Mr. Gaikwad, the learned APP and Mr. Joshi, the learned Counsel for respondent no.2 – first informant resisted the prayer of the applicant. It was submitted that the egregious nature of the fraud cannot be lost sight of. Co-accused Rahul Jadhav, who is the husband of the first informant initially forged the Power of Attorney by impersonating the first informant and, later on, on the strength of the said Power of Attorney got executed Gift Deeds in his own favour. It is not the case of innocuous identification of an executant by an unsuspecting witness, submitted Mr. Joshi, the learned Counsel for respondent no.2.

9. I find substance in the submissions on behalf of the respondents. There is material on record to indicate that the applicant had known Rahul Jadhav, co-accused no.1, and the first informant from before. What exacerbates the situation is the fact that in the First Information Report (FIR), the first informant alleges that the matrimonial dispute arose between the first informant and accused no.1 over the intermeddling by Deepak Chavan, the applicant herein. She had lodged a report against her husband and the applicant at Ambegaon Pathar

Police Station. The applicant was thus very much a privy to the affairs of the first informant and co-accused Rahul Jadhav. Yet, the applicant went on to identify an impostor as the first informant. This act of identification *prima facie* does not appear to be innocuous.

10. The matter can be looked at from the another perspective. Rest of the accused came to be arrested. The role attributed to the applicant, in the circumstances of the case, cannot be said to be any less grave. *Prima facie* it appears to be a case of well planned fraud. The proximity of the applicant to co-accused no.1 as well as the first informant militates against the claim of innocent identification.

11. In the aforesaid view of the mater, I am not inclined to exercise the discretion in favour of the applicant.

12. Hence, the following order:

: O R D E R :

- (i) The application stands rejected.
- (ii) Order of interim pre-arrest bail stands vacated.

[N. J. JAMADAR, J.]