

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

CRI. ANTICIPATORY BAIL APPLICATION NO. 1051 OF 2020

Jayant Ramchandra Mhalgi & Anr. ..Applicants

Vs.

The State of Maharashtra ..Respondent

**WITH
ANTICIPATORY BAIL APPLICATION (ST) NO. 2968 OF 2020**

Vikram Chandrakant Gokhale ..Applicant

Vs.

The State of Maharashtra ..Respondent

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Mr. Tapan Thatte a/w. Mr. Shantanu Adkar, for the Applicants in ABA No.1051/2020.

Mr. Shirish Gupte, Sr. Advocate i/b. Mr. K. B. Rajput, for the Applicant in ABA(St) No.2968/2020.

Mr. Amol A. Deshpande, for the Intervener.

Mr. Y. Y. Dabke, APP for the Respondent / State.

**CORAM : C.V. BHADANG, J.
DATE : 8 MARCH 2022**

P.C.

. Both these Applications, seeking anticipatory bail, arise out of Crime No.91/2020 of Police Station Paud, District Pune, under Section 420, 465, 468, 341, 447 and 427 r/w. 34 of IPC.

2. The aforesaid crime is registered on the basis of the complaint dated 17 March 2020 lodged by Jayant Prabhakar Bahirat. According to the informant, Applicants Jayant Ramchandra Mhalgi and Sau. Sujata Jayant Mhalgi are the Directors and the Applicant Vikram Gokhale is the Chairman of *Sujata Farms Pvt. Limited*. The said Company had floated a project by name *Girivan Projects* of residential / farm plots at Village Hotale / Dongargaon in Mulshi Taluka of District Pune. This was somewhere in the year 1989. The gravamen of the allegation is that the Applicants by misusing their social image and reputation, had induced the informant and other purchasers to purchase the plots claiming that the said project is a Government approved project.

3. In the year 2016, the informant applied to the District Collector, Pune for conducting the measurement of the said plots / layout as the Applicant Jayant and Sujata Mhalgi were not ready and willing to get the measurement done. On such a measurement, being done, it was revealed that the Applicants have cheated the informant and other purchasers. The complaint lodged by the informant sets out the details of in all 14 purchasers including the nature of the irregularities. It is alleged that the Gat number mentioned in the sale deeds was not the same of which the possession was delivered to the informant and others. In respect of some of the purchasers such as Rahul Narwade, it is alleged that

possession is not delivered, while in respect of Smita Joshi and others, the allegation is that Gat numbers mentioned in the sale deeds is other than the Gat numbers of which the possession is given.

4. In short, according to the informant, the Applicants had represented that the project was a Government approved project and had cheated the informant and other purchasers, to the tune of Rs.96,99,000/-.

5. On the basis of such a complaint, the offence is registered, which is under investigation.

6. I have heard the learned counsel for the parties. Perused record.

7. It is submitted by the learned Senior counsel for the Applicant in ABA(St) No.2968/2020 that the Applicant was a Non Executive Chairman of *Girivan Group of Companies*. In so far as the *Girivan Project* is concerned, it is submitted that the Applicant is was merely acting as a Brand Ambassador and has no other role to play. It is submitted that the Applicant has also resigned somewhere in January 2020 and the FIR is registered subsequent to that on 17 March 2020. It is submitted that the various sale deeds are executed

during the period from 1997 to 2011 and some of the purchasers have also made construction thereon which is occupied. The learned Senior counsel pointed out that the measurement of the year 2016 on the basis of which the complaint is filed, is not carried out properly and in any event, the dispute is of a civil nature without any criminal overtones.

8. The learned counsel appearing for the Applicants in ABA No.1051/2020 has submitted that even according to the informant, the dispute, if any, is on the basis of the measurement carried out by the informant in the year 2016. It is submitted that by letter dated 16 May 2019 issued by the Deputy Director of Land Records, Pune, addressed to the Superintendent of Land Records, it was informed that the measurement on the basis of possession / occupation (वहिवाटीची मोजणी), is illegal and should be discontinued. It is submitted that in any event, the dispute, if any, is of a civil nature and the evidence is of a documentary nature, not requiring any custodial interrogation.

9. The learned APP, assisted by the learned counsel for the Intervener, has submitted that there is a clear discrepancy in the Gat numbers mentioned in the sale deeds and those found during the course of measurement. It is submitted that there is no approved layout of the plots and as such, the very execution of the sale deed

coupled with the representation made by the Applicants is sufficient to draw an inference of deceit. The learned APP submitted that for proper investigation, the custody of the Applicants is required.

10. I have carefully considered the rival circumstances and the submissions made.

11. It can *prima facie* be seen that even according to the informant and the FIR lodged on 17 March 2020, the matter dates back to the year 1989. The various sale deeds are executed between 1997 to 2011. Even according to the informant, the alleged irregularities were disclosed somewhere in the year 2016, when the measurement was carried out with the intervention of the Collector. Even thereafter, the complaint is lodged only on 17 March 2020. *Prima facie*, there is no explanation for such a delay. The allegations are mainly about (i) a representation being made that the project is a Government approved project and (ii) about certain discrepancies in the Gat numbers as mentioned in the sale deed and those found on the spot during the course of the measurement. In respect of certain purchasers, referred to in the complaint, the allegation is that the possession is not delivered and there is also obstruction when the purchasers Hemant Anikhindi and Pravina Anikhindi (Serial No.14) had attempted to visit the spot. The learned counsel for the Applicants have questioned the legality and correctness of the

measurement, on the basis of the letter dated 16 May 2009 issued by the Deputy Director of Land Records, Pune. In my considered view, such a dispute about the legality of the measurement carried out by Survey Officers and about a discrepancy in the Gat numbers and an obstruction to possession etc. would be a dispute which is predominantly of a civil nature. At any rate, this cannot be decided in an Application for anticipatory bail. It is necessary to note that the evidence in this case is of a documentary nature such as sale deeds, revenue record and the record about the measurement. It is significant to note that some of the purchasers are also said to have made construction on the plots.

12. Considering the over all circumstances, I do not find that this is a case where custodial interrogation of the Applicants is necessary. The investigation can proceed. The record discloses that interim protection was granted to the Applicants which is operating since 2020. It is not disputed that the Applicants have reported to the Investigating Officer.

13. In the result, the following order is passed.

ORDER

- (i) The Criminal Applications are allowed.
- (ii) In the event of their arrest in connection with investigation of Crime No.91/2020 of Police Station

Paud, District Pune (Rural), the Applicant No.1 Jayant Ramchandra Mhalgi and Applicant No.2 Sujata Jayant Mhalgi (ABA No.1051/2020) and Applicant Vikram Chandrakant Gokhale (ABAST No.2968/2020), be released on bail, on executing a P.R. Bond in the sum of Rs.25,000/- each with one or two solvent sureties each, in the like amount.

(iii) The Applicants shall report to the Investigating Officer on 20/3/2022, 21/3/2022 and 22/3/2022 between 11.00 a.m. to 1.00 p.m. and as and when required and shall cooperate with the Investigating Agency by production of all necessary documents, as may be required by the Investigating Officer.

(iv) Liberty to the prosecution to apply for modification, in the event there is further material collected.

C.V. BHADANG, J.