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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1965 OF 2022

Hitesh Bhuralal Jain	]	..	Applicant
vs.			
State of Maharashtra	]	..	Respondent

Mr.Subodh Desai a/w Rishikesh Soni and Raveena Yadav i/b Raveena Yadav for the Applicant.

Smt.Anamika Malhotra, APP for the State.

PI Mr.R.P. Bayes, EOW, Thane Rural present.

CORAM : BHARATI DANGRE, J

DATE : 4TH AUGUST, 2022.

P.C.

1] The Applicant is apprehending his arrest in CR No.368/2022 registered with Bhivandi Police Station for the offences punishable under Section 420, 465, 467, 470, 471 and 120B of the Indian Penal Code.

2] Heard learned counsel Mr.Subodh Desai alongwith Rishikesh Soni and Raveena Yadav for the Applicant and learned APP Smt.Anamika Malhotra for the State, who is instructed by PI R.P. Bayes, attached to EOW, Thane Rural.

3] The subject CR came to be registered on the exhaustive complaint filed by one Yadgiri Yelayya Bergu on 29.06.2022 where he

referred to five accused persons. The Applicant Hitesh Jain, on the basis of accusations levelled against him is arraigned as accused No.2 alongwith prime accused No.1, Deepak Shaha.

The complainant allege that in June, 2006 he undertook an activity of construction of godowns in the name of Om Harihar Corporation alongwith two partners, one of whom exited immediately. In the year 2007. He entered into agreement with several farmers, owners of land located in the distinct survey numbers in Vadghar, District Bhivandi. The total area is admeasuring 1,31,920.00 sq. mtr. and a Development Agreement and Power of Attorney was executed with the respective original farmers with an expressed undertaking, that some of the farmers on construction of the godowns would be entitled for 30% or 40% of the constructed portion. N.A. permissions were obtained from the Collector and with the permission of Gram Panchayant construction of the warehouses commenced. From the year 2014, the complainant continued as a sole Proprietor of Om Harihar Corporation.

4] In the complaint it is stated that, Accused No.1 Deepak Shah was his employee in the year 2016 and his services were availed for registering documents, by attending Registrar's Office and for that purpose, he was given 'Admission Power'. After the necessary documents were signed by the complainant, his duty was to register the said documents with the Registrar.

From the year 2017 Accused No.1 Deepak Shah stopped working with the complainant and since then no document was given to him for registration.

5] As per the version of the complainant, he had planned

construction of 27 godown with 10 to 12 Galas in each of them and therefore he numbered the godowns and even delivered the possession to some farmers.

In January, 2022 he came across a notice issued by Mr.Hitesh Jain in respect of Om Harihar warehouse for title clearance and since the complainant had not entered into transaction with any third person, he responded to the said notice through his Advocate. In the month of January, 2022 he was visited by the Talalathi of Village Karivali with his associates and two persons were introduced to him, one being the Applicant as owner of Sony Brothers Construction Company and Accused No.3 Shashikant Karlekar, who informed the complainant that Deepak Shah is likely to execute a Conveyance Deed of Om Harihar Corporation to them and the draft of the Conveyance Deed was also shown to the complainant. Alongwith the conveyance deed, registered Power of Attorney given by the farmers in favour of accused No.1 Deepak Shaha was also appended. Realising that the said document is forged one as the photos of the farmers and signatures were forged and no rights were conferred upon accused No.1 Deepak Shaha, the present Applicant and accused No.3 were made aware of the said position.

After few days, the Applicant alongwith Accused No.3 brought papers reflecting that the complainant had transferred entire project in their favour and he insisted for its sale and the complainant realised that they are incorrect documents, as he was not interested in selling the property.

6] The complainant further alleged that the Applicant leased out certain godowns to Kohler India Corporation Pvt. Ltd. and he realised that some of the godowns were not even existing and some Galas

from other godowns were already sold to different customers and some of the Galas were already delivered to the farmers as per the Development Agreement and therefore, there was no question of leasing out the godowns. When he contacted the Applicant, he was shocked to find out that he is in possession of the Agreements on the letterhead of Om Harihar Corporation, which were in the form of possession letter and no due certificate.

7] After few days, the complainant realised that accused No.1 Deepak Shaha had executed Conveyance Deed in favour of the Applicant in respect of certain portion of property belonging to Om Harihar Corporation and Conveyance Deed was registered on 21.02.2022 and on careful reading of the deed it was revealed that on the basis of Power of Attorney, accused No.1 Deepak Shaha had executed deed in favour of the present Applicant, which had forged signatures with forged photographs. The signatures were also forged. The Conveyance Deed was executed on the basis of fraudulent Power of Attorney with forged photographs and signatures of the respective farmers. Adhaar Card numbers on the said document were not tallying with the original Adhaar Card numbers of the farmers and it is alleged by the complainant that signatures on the said document are not his and Shashikant Karlekar and Ganesh Mhatre (Accused Nos.3 and 4) had signed as witnessed to the said document.

8] The aforesaid information led to registration of CR and during the course of investigation several mis-deeds of the accused persons have surfaced on record. Leave and License Agreement has been executed by the Applicant when he has no right to the said properties and some of the godowns in respect of which Agreement is executed do not even

exist. The Power of Attorney given to accused No.1 Deepak Shaha was only in respect of 'Admission Power' and he was not given any right to sale any property by the complainant. The representative of Kohler India Corporation Private Limited with whom the Agreement for Leave and License was entered into i.e. one Rushi Kasar is a ghost entity and authority letter and signature of authorized person of Kohler India Corporation Private Limited in his favour is also forged and this reflected from the statement of employee of Kohler India Corporation Private Limited. The signatures of the complainant on the 'No due Certificate' and 'Possession Letter' dated 18.11.2021 are forged, as at the relevant time the complainant was in Thane Central Jail and was not available to sign the documents. The loan application was preferred by the Applicant to Aditya Birla Loan to procure 40 Crore loan to purchase the property used for the rental agreements, though the learned APP states that no loan was actually disbursed, 20 Crore loan was sanctioned on the basis of forged rental agreement.

9] The learned APP has also placed on record statement of employee of Sub Registrar Office Bhivandi and from his statement it is apparent that all the 37 farmers who had signed or put their thumb impressions and pasted their photographs on the Irrevocable Power of Attorney in favour of Accused No.1 Deepak Shaha are impersonators.

The investigation further revealed that the accused persons have taken advantage of non functioning of online verification system and registered bogus documents with the help of 37 impersonators, so also bogus identification proof of Adhaar Cards has been used and even in case of one of the farmer who is male, the photograph of female is pasted and some of the farmers whose signatures are found on the said documents are dead. At the time of registration of the said

documents, the Applicant was present at the Registrar's office as per one of the witness whose statement has been recorded.

10] The documents placed before me also reveal that the Applicant alongwith other accused persons registered a Conveyance Deed and presented Deed on 11.02.2022 and it was registered on 21.02.2022 when accused No.1 Deepak Shaha signed the said document. The photographs of 37 farmers which were pasted and whose thumb impressions/signatures were found on the document are forged as per the investigation, as the statements of various farmers have been recorded who denied to have signed any such document. Affidavit-cum-Declaration of the farmers with their signatures/thumb impressions attached to Conveyance Deed are forged.

11] Not only this, but the forged title certificate was also presented and statement of the concerned Advocate has been recorded who has denied issuance of any such title certificate. From the copies of bearer cheques it was revealed that the original farmers never received money though the cheques are cleared from Andheri, Kandivali, Oshiwara and Goregaon Branch of HDFC Bank.

12] The accusations levelled against the present Applicant are serious in nature. The investigation that is carried out till date reflect his complacency. Though the learned counsel for the Applicant would submit that by executing Conveyance Deed he had incurred the amount towards stamp duty, it is not sufficient to assess its bonafide. Not only the complainant, but the farmers have also been duped and taking into account the investigation which reflect that forged documents are executed in absence of the original farmers being

present for executing the conveyance or for executing Power of Attorney, custodial interrogation of the Applicant will only take the investigation further.

In the peculiar facts of the case, custodial interrogation of the Applicant is very much required. Hence, the application is rejected.

[BHARATI DANGRE, J]