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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2332 OF 2021

Chandrakant Sampat Bhujbal Applicant.

V/s

The State of Maharashtra Respondent.

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.2125 OF 2021**

Kausthubh Sunil Pashankar Applicant.

V/s

The State of Maharashtra Respondent.

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO.2126 OF 2021**

Pradip Vishnu Kumbhar Applicant.

V/s

The State of Maharashtra Respondent.

Mr. Sujay Gangal for the Applicant in ABA/2332/2021.

Mr. Priyal G. Sarda for the Applicant in ABA/2125/2021 and
ABA/2126/2021.

Ms. Pallavi Dabholkar, APP for the Respondent/State.

API Mr. Somnath Padsalkar, Hadapsar Police Station, present.

CORAM: NITIN W. SAMBRE, J.

DATE : SEPTEMBER 15, 2022

P.C.:

1] Complainant Tyron D'souza and his wife Vitoliya acquired title to Plot Nos. 202 and 203 vide registered Sale Deed dated 29/12/1993 executed by M/s Mantri Oswal Housing Co. Pvt. Ltd for which Subhash Samudayik Shetki Sangh Ltd. was a consenting party. Said Tyron and his wife were residents of Canada and as such were unable to check day-to-day status of the aforesaid property. Taking undue advantage of the aforesaid position, plot No.202 appears to have been transferred in favour of Accused Sandhya Bhujbal by co-accused Ananda Ghule who was the Chairman of Subhash Samudayik Shetki Sangh Ltd. The co-accused Pradeep Vishnu Kumbhar and Chandrakant Sampat Bhujbal, the husband of co-accused Sandhya, got themselves appointed as Power of Attorney holders on behalf of M/s. Real Estate Services whose services were shown to have been hired by said Sangh/Co-op. Society. All these accused persons conspired together and shown to have sold plot No.202 to Sandhya Bhujbal on

12/08/2020. Sandhya Bhujbal allegedly gifted said plot in favour of co-accused Chandrakant Bhujbal vide Gift Deed dated 28/09/2020.

2] Plot No.203 was shown to have been sold by co-accused Chandrakant Bhujbal vide Sale Deed dated 12/08/2020 to Accused No.5 Kausthub Pashankar.

3] Complainant Tyron and his wife Vitoliya, after formation of the Co-operative Housing Society of the plot owners, became members of Indraprastha Co-operating Housing Society and were holding five shares as against the aforesaid plot Nos. 202 and 203. Having noticed the aforesaid offence on the part of accused persons, complaint came to be lodged, resulting into registration of Crime No.652 of 2021 punishable under Sections 420, 465, 467, 468, 471 read with Section 34 of the Indian Penal Code.

4] Common submissions made on behalf of all the Applicants/Accused are, they are innocent and they had not intention to commit offence in question. It is claimed that aforesaid transaction

was bonafide one and already steps are taken so as to undo the damage caused. It is also claimed that the offence is based on documents and as such custody of the Applicants is not required as they have already cooperated in the investigation.

5] It is further urged that in civil proceedings, Trial Court has also passed appropriate orders in favour of the Applicants-Accused Chandrakant Bhujbal and Sandhya Bhujbal. In addition to above, contentions are, other co-accused has purchased the property without notice about earlier transaction of complainant and has believed the same to be genuine transaction. It is also claimed that offence is not at all committed and it is out of misunderstanding, complaint came to be lodged.

6] For the following reasons having regard to role attributed to the Applicants/Accused, learned APP would urge that Anticipatory Bail Applications of all the Applicants/Accused need to be rejected.

7] Chandrakant Bhujbal and his wife Sandhya Bhujbal are Accused Nos. 3 and 4 respectively. Kausthubh Pashankar is Accused No.5,

whereas Pradeep Vishnu Kumbar is Accused No.2. As against Accused No.2 - Pradeep Vishnu Kumbhar role attributed is, Power of Attorney holder on behalf of the Firm M/s Real Estate Services. Indraprastha Co-operative Housing Society alleged to have passed Resolution dated 18/01/2016 and 20/01/2016 for selling, developing, mortgaging of the subject property. M/s Real Estate Services, a partnership firm, is shown to have been hired by Subhash Samudayik Shetki Sangh Ltd. for collecting information in respect of transactions of plots sold out by Subhash Samudayik Shetki Sangh Ltd. The said Accused No.2 Pradeep Vishnu Kumbhar being Power of Attorney holder with co-accused Chandrakant has signed the Sale Deed dated 12/08/2020 that too without any authority in favour of Accused Nos. 4 and 5 i.e. Sandhya Bhujbal and Kausthubh Pashankar respectively. Accused No.5 – Kausthubh Pashankar who is Applicant before this Court alleged that he is a bonafide purchaser of plot No.203 from Subhash Samudayik Shetki Sangh Ltd. vide registered Sale Deed dated 12/08/2020 executed by Accused No.2. As far as Accused No.3 – Chandrakant Sampat Bhujbal is concerned, he alongwith Accused No.2 is shown to be the Power of Attorney holders

of M/s Real Estate Services who have signed Sale Deed dated 12/08/2020 being consenting parties. The said Sale Deed was shown to have been executed by Accused No.1 viz. Ananda Ghule alongwith Applicants herein.

8] It is borne out of the investigation papers that Complainant Tyron and his wife Vitoliya vide registered Sale Deed have purchased plot Nos. 202 and 203 on 29/12/1993. The said plots were purchased from M/s Mantri Oswal Housing Co. Pvt. Ltd, to which Subhash Samudayik Shetki Sangh Ltd was a consenting party. In spite of the said plots having been already transferred in favour of the Complainant, all the Applicants/Accused in connivance with each other have not only committed forgery but also committed an offence of cheating. Complicity of each of the accused persons is apparent from the very manner in which they have committed the offence.

9] All the accused persons in calculated manner appear to have committed offence as could be inferred from the investigation papers.

10] Accused Sandhya Bhujbal filed Special Civil Suit No.1213 of 2020 on the file of Civil Judge, Senior Division, Pune for declaration and cancellation of Gift Deed dated 28/09/2020. Both the Accused i.e. Accused No. 3 and 4 i.e. Chandakant Bhujbal and Sandhya Bhujbal compromised the same by Consent Terms Exhibit-9. As a sequel, above properties stood vested in Accused No.3 – Chandrakant Bhujbal. As such, in indirect way, Accused No.3 has got the properties transferred in his own name and has also misused the court proceedings by drawing Consent Terms. All the accused persons having noticed that complainants are not permanently residing in India, with common intention, by taking advantage of said situation, shown to have transferred the property that too on paper without passing on any valid consideration. Investigation till this date reflects that Sale Deeds are executed, further proceedings are taken up for again transferring the property through Gift Deed etc. without any valid consideration and only a farce of payment of consideration is made by mentioning so in the documents. The mode and manner in which the offence is executed categorically establishes complicity of each of the accused in the matter of forgery, cheating. All necessary

ingredients of the offence alleged can be verymuch inferred against the accused persons. As such, there is strong prima facie case against the Applicants which warrants their custodial interrogation.

11] In that view of the matter, prayer for bail stands rejected.

12] All these Applications are disposed of.

(NITIN W. SAMBRE, J.)