

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

ANTICIPATORY BAIL APPLICATION NO.2414 OF 2021

Dinesh Ramesh Pawle

and another

.... Applicants

Versus

The State of Maharashtra

.... Respondent

.....

WITH

INTERIM APPLICATION NO.115 OF 2022

IN

ANTICIPATORY BAIL APPLICATION NO.2414 OF 2021

Mr. Brijesh Kiran Rathod, Advocate i/b. V.K. Dubey, for the Applicants.

Mr. Ajay Patil, APP for the Respondent-State.

Mr. Kalpesh U. Patil, Advocate for the Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th JANUARY, 2022
[Through Video Conferencing]

P.C. :

1. The applicant is seeking anticipatory bail in connection with C.R.No.47/2021 dated 7.9.2021 registered at Gorai Police Station, Mumbai under Sections 406, 420, 465, 467, 468, 471 read with 34 of the Indian Penal Code.

2. Heard Shri Brijesh Kiran Rathod, learned counsel for the applicants, Shri Ajay Patil, learned APP for the State and Shri Kalpesh Patil, learned counsel for the Intervenor.

3. The FIR is lodged by the Senior Manager (Legal) Shri Sanjay Dhekane, working with the Maharashtra Tourism Development Corporation [MTDC]. He has stated that the MTDC had complained to Gorai police station that some people had encroached upon their lands and those lands were directly sold to third persons. According to the first informant, the lands bearing Survey Nos.46, 53, 54, 56, 57, 59 admeasuring 128.33 acres situate at village Gorai, Taluka Borivali, District-Mumbai Suburb were transferred in favour of MTDC vide order passed by the Collector on 20.7.1995. In the year 2007, MTDC had issued a tender for building resort on their land. There was some litigation in respect of that property. In 2017, the boundaries was measured by MTDC. At that time, they had sought help from the police station. At that time, there was no unauthorized construction seen in Survey No.53. On 15.2.2021, a letter was given by the

Tahsildar for measurement of that land. Therefore, the officers including the Circle Officer, Talathi and Officers of MTDC went at the spot and carried out inspection and it was found that on Survey No.53, about 20 to 25 gunthas of land was encroached upon and there was construction carried out on that area. On 1.3.2021, one Dashrath Chavan had given complaint mentioning that some people were encroaching upon the land and were cheating the people by selling that land. Enquiries conducted by the police showed that the applicants had encroached upon 20 to 25 gunthas of land of Survey No.53. He had carried out unauthorized construction, had prepared forged documents and had sold that land to Dashrath Chavan for Rs.20 Lakhs. Rs.12 Lakhs were actually accepted. On this basis, the FIR is lodged.

4. Learned counsel for the applicant invited my attention to a letter dated 9.1.2020 sent by Dashrath Chavan to the Tahsildar, Borivali wherein he had mentioned that Dinesh Pawle i.e. the applicant had carried out the unauthorized construction. According to learned counsel for

the applicants if Dashrath Chavan was aware of the illegality of the construction he would not have purchased the property from the applicants in March 2020. Therefore, the entire case against the applicants is false.

5. Learned APP opposed this application. He produced a document purportedly given by the applicant to Dashrath Chavan which referred to City Survey No.48. That document was purportedly dated 17.10.1976 but the photographs on that document was forged and there is no such document in the corporation record. It is obvious that forged document was used by the present applicants.

6. Learned APP also relied upon the police report given by the investigating officer in this connection. Said report is taken on record and marked 'X' for identification.

7. I have considered these submissions and I have in particular perused the report given by the police officers. The police report shows that the investigation has revealed that the applicants had constructed unauthorized construction on Survey No.53 which actually belonged to MTDC. The

applicants did not have any document to show their ownership, title or interest in that property.

8. According to the report, the survey number of that property was 'survey No.43' and new survey number was 'Survey No.48'. The investigation revealed that survey No.43 CTS No.48 and survey No.53 had absolutely nothing to do with the present applicants. The investigation revealed that the applicants have absolutely no connection with either of these properties. There was unauthorized construction carried out on this particular area. The applicants' complicity in the serious offence is revealed during investigation. As per the allegations, the applicant No.2 has helped the applicant No.1 in commission of this offence. No case for grant of anticipatory bail is made out. Custodial interrogation of the applicants is necessary. The application is rejected. In view of disposal of application, IA No.115/2022 also stands disposed of.

PRADIPKUMAR
PRAKASHRAO
DESHMANE

Digitally signed by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date: 2022.01.14
16:17:40 +0530

(SARANG V. KOTWAL, J.)

Deshmane (PS)