

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

ANTICIPATORY BAIL APPLICATION NO.2430 OF 2021

Digitally
signed by
BALAJI
GOVINDRAO
PANCHAL
Date:
2022.09.22
17:11:05
+0530

Mukataji Sakharam Gunjal

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Amey Deshpande, for the Applicant.

Ms. Sharmila S. Kaushik, APP for the Respondent/State.

Mr. Nitin Kedu Khairnar, API, Sarkarwada Police Station, Nasik City
– present.

CORAM : NITIN W. SAMBRE, J.

DATE : 20th SEPTEMBER, 2022

PC.

1. Applicant is seeking pre-arrest bail in Crime No.I-72 of 2019 registered with Sarkarwada Police Station, Nashik for the offence punishable under Sections 420, 467, 468, 471 of IPC.

2. The prosecution case is, applicant having received consideration of Rs.54,00,000/- and failed to hand over possession of the land though registered sale-deed dated 26th July, 2013 was executed by Khode for whom he was holding Power of Attorney.

3. Contentions of counsel for the applicant are, sale-deed was executed by Khode and not by applicant. Applicant was authorized Power of Attorney only to present sale-deed for

registration. According to him, in the transaction it is only Khode who can be made accused and not the applicant, as the applicant is only Power of Attorney holder.

4. Counsel for the applicant would further urge that in lieu of the land which is subject matter of the present offence, applicant claimed to have given other landed property to the complainant. So as to substantiate said claim, he has produced on record copy of the sale-deed.

5. Learned APP would oppose the prayer.

6. I have appreciated the submissions.

7. It appears that the Khodes who are signatories to the sale-deed appears to be illiterate persons, as the sale-deed was registered and executed under their thumb impression. Sale-deed was executed for transfer of land bearing Survey No.9/1 to 9/1/A admeasuring 16.5 R.

8. As regards the claim put forth by the applicant that the sale-deed in relation to other two properties was executed in favour of the complainant in lieu of the transaction of 2013 is concerned, what can be noticed is the complainants have not come out with any such plea before the Investigating Officer or the applicant has not moved for quashing of the present offence before the division bench

based on the same. Rather it can be inferred from the record that the applicant has used the names of the Khodes for transferring the land which was not at all in existence.

9. The applicant instead of transferring the said amount to the account of Khodes has received the entire consideration and was not able to identify the land for which he claimed to have holding the Power of Attorney. There is enough material on record to infer that it was the applicant who acted behind the curtains for executing sale-deed and keeping the illegal fruits of illegal transaction in the name of Khodes. The entire investigation depicts that the *prima-facie* involvement of the applicant in an offence punishable under Sections 420, 467, 468 and 471 can be inferred as the necessary ingredients are satisfied. Applicant was called upon to deposit amount of Rs.54,00,000/- received by him in the transaction to which he is unable to respond. As such, claim put forth that there is delay of lodging FIR, there is hardly any consequences.

10. The application as such fails, dismissed.

[NITIN W. SAMBRE, J.]