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

ANTICIPATORY BAIL APPLICATION NO. 2487 OF 2021

Vishnu Jagannath Gaikwad ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Hrishikesh Mundargi, a/w Shradha Sawant, for the
Applicant.
Ms. P. N. Dabholkar, APP for the State.

CORAM: N. J. JAMADAR, J.

DATED : 14th JULY, 2022

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.387/2021, registered with Wakad Police Station, Pune, for the offences punishable under Sections 120B, 420, 464, 465, 468, 471, 384, 386, 448, 379, 201, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 ("the Penal Code").
3. Mr. Mahendrakumar Sitaram Chaudhary, the first informant, lodged a report with the allegations that in the year 2012 he had purchased 3R land out of Survey No.261, Plot No.24, from the first informant for a consideration of Rs.35,25,000/-. Part consideration of Rs.25,25,000/- was paid

on the day of the execution of the Sale Deed i.e. 12th November, 2012. Balance consideration was to be paid upon mutation of the name of the first informant to the record of right. However, the name of the first informant could not be mutated as the land purchased by the first informant was less than the 'fragment' under the Maharashtra Prevention of Fragmentation and Consolidation of Holdings Act, 1947 ("the Act, 1947"). Eventually, an order was passed by the Sub-Divisional Office and the appeal preferred by the first informant came to be dismissed.

4. The first informant alleged that in the year 2020, while the first informant was admitted in hospital, the applicant and his son took forcible possession of the said premises. Thereafter, the applicant executed a Gift Deed of the subject premises in favour of his wife. It is further alleged that the applicant threatened his tenant Mahesh Vardale and Gaurav and made them to part with a sum of Rs.10,00,000/-.

5. By an order dated 25th October, 2021 opining that in the backdrop of the nature of the accusation a case for interim protection was made out, it was directed that the applicant shall not be arrested.

6. I have perused the allegations in the FIR. Evidently, the genesis of the dispute is in the transaction between the applicant and the first informant executed in the year 2012. It seems that since the land purchased by the first informant was less than the fragment, the name of the first informant could not be mutated to the record of right on the basis of the Sale Deed executed on 12th March, 2012. An appeal preferred by the first informant came to be dismissed by the Sub-Divisional Officer opining that the transaction was in the teeth of the provisions contained in the Act, 1947.

7. In the aforesaid view of the matter, the allegations in the FIR are required to be considered through the prism of the alleged void nature of the transaction. In the aforesaid context, since the offences revolve around the documents and the allegations are of forcible dispossession, custodial interrogation does not seem imperative for effective investigation. The applicant can be directed to join the investigation.

8. Hence, the following order:

: O R D E R :

- (i) The application stands allowed.
- (ii) In the event of arrest of the applicant – Vishnu Jagannath Gaikwad in CR No.387/2021, registered with

Wakad Police Station, Pune, he be released on bail on furnishing a P. R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount.

(iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the prosecution witnesses.

(iv) The applicant shall cooperate with the investigation and attend Wakad Police Station on the first Monday of every month in between 10.00 am. to 1.00 pm. for the period of four months or till the filing of the charge-sheet, whichever is earlier.

(v) The applicant shall regularly attend the proceedings before the jurisdictional Court.

[N. J. JAMADAR, J.]