

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2839 OF 2022

Shri. Vikas Pandharinath Thorat ...Applicant
V/s.
The State of Maharashtra ...Respondent

Mr. D.V. Sutar a/w Mr. Nilesh Mohite i/b Mr. Shivram Gawade, for the Applicant.

Mr. Amit Palkar, APP, for the Respondent/State.

CORAM : N.R. BORKAR, J.
DATE : 15.12.2022.

PC. :

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 256 of 2022 registered at Hinjewadi Police Station, Pimpri Chinchwad for the offences punishable under Sections 109, 120(B), 420, 467, 468, 471 read with 34 of the Indian Penal Code.

3. I have heard the learned counsel for the applicant and the learned APP for the respondent/State.

4. The complainant owns ancestral agricultural land bearing Gat Nos. 162 and 163 at village Bhushi, Taluka Maval, District Pune.

The co-accused in the present crime had filed an application under Section 70(B) of the Bombay Tenancy and Agricultural Lands Act, 1948 to declare them as tenants of the said lands. By order dated 19/03/2021, the Tenancy Tribunal had allowed the said application. According to the complainant, during the relevant time, she was not in India. The complainant has alleged that no notice of said application was ever sent at her residential address in Mumbai. Be that as it may, the allegations against the present applicant, who is an advocate, are of forgery. According to the complainant, she neither instructed the present applicant to file the appeal on her behalf nor signed the vakalatnama.

5. The learned APP submits that according to the applicant he handed over the papers for filing appeal to the advocate from Pune, who is also co-accused in the crime. It is submitted that present applicant has filed an affidavit in the anticipatory bail application filed by him stating therein that he was instructed to file appeal by one Jahangir Chavana, the resident of Mumbai. During the course of investigation, the statement of said Jahangir Chavana, who appears to be brother-in-law of the complainant, came to be recorded. The said Jahangir Chavana, in his statement, has denied to have ever contacted the present applicant or instructed him to file appeal.

6. The learned counsel for the applicant submits that the main allegations are against the co-accused who has filed the application for

declaring them as tenants in the land in question. It is submitted that no motive is attributed to the present applicant for committing the alleged crime. It is further submitted that no forgery can be attributed to the present applicant just because Jahangir Chavana is now saying that he never instructed the present applicant to file appeal.

7. According to the applicant, he is the resident of Nashik. The lands in question are at village Bhushi, District Pune. The appeal at the instruction of present applicant was filed by the advocate from Pune, who is also co-accused in the present crime. It is not the case of the applicant that the said Jahangir Chavana, who according to the prosecution is resident of Mumbai, contacted him through their common friend or that there was prior acquaintance. In absence of it, the statement of Jahangir Chavana will have to be accepted at this stage, for the reason that the person from Mumbai would not engage advocate from Nashik to file an appeal in Pune district. Apart from it, the applicant has not placed on record any materials in respect of his defense. Considering the facts and circumstances of the case, I am not inclined to release the applicant on anticipatory bail. Accordingly, the Anticipatory Bail Application is rejected.

8. On the request of learned counsel for the applicant, the interim order passed by this Court dated 13/10/2022 shall continue to operate for the period of three weeks.

[N.R.BORKAR, J.]