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DATED : 15 NOVEMBER 2022

P.C. :-

3. It is the case of the prosecution that the maternal grandfather of the complainant was the owner of land bearing Survey Nos.224 and 212 at Mouze Chanje. His maternal grandfather and grandmother died in the year 1967 and 1998 respectively and after their death name of his mother and her three sisters were mutated in revenue record. According to the

complainant in the year 1970 the CIDCO had acquired some portion of the land owned by his grandfather and in lieu of said acquisition granted plot No.80 in Sector 59 admeasuring 399.61 sq.mtrs. at Uran. According to the complainant in the year 2015 he obtained the 7/12 extract and found that names of his mother and her sister Yamunabai were deleted from 7/12 extract. It is alleged that he thereafter obtained certain documents under the Right to Information Act from CIDCO and he found that one order dated 3rd July 2008 passed by the Civil Court in Civil Miscellaneous Application No.140 of 2006 was submitted to the CIDCO and on the basis and said documents the accused got executed agreement in their favour from CIDCO of the said plot No.80 at Uran. It is alleged that he therefore made an application for certified copy of the order of the Civil Court, which was submitted to the CIDCO by the accused and he found that said order was forged. It is alleged that the accused by submitting forged documents got executed agreement from CIDCO and sold the plot in question to Tirupati Land Infrastructure. During the course of investigation, the accused were arrested and they disclosed that the said forged order of Civil Court was given to them by the present applicant No.1 who is a builder and applicant No.2 who is an employee of applicant No.1.

4. I have heard the learned Counsel for the applicants and the learned APP for the State.

5. The learned Counsel for the applicants submits that the names of mother of complainant and her sister Yamunabai were deleted

from the 7/12 extracts of land in question in the year 1986 itself. It is submitted that in the award passed by the CIDCO their names were not there. It is submitted that co-accused in the present crime executed the agreement dated 21st February 2016 in favour of the applicant No.1 in respect of plot in question and as they breached the said agreement, the applicant No.1 was required to file suit for specific performance. It is submitted that the entire allegations in the FIR are against the co-accused and the present applicants have nothing to do with the alleged crime. It is submitted that nothing is to be recovered at the instance of the present applicants and therefore, there is no need of custodial interrogation. It is submitted that considering the facts and circumstances, the applicants be released on anticipatory bail.

6. On the other hand, the learned APP submits that the applicant No.1 in February 2006, even before execution of the formal Agreement by CIDCO in favour of accused in respect of plot in question, got executed the irrevocable power of attorney from the accused. It is submitted that the said power of attorney would show that the applicants got authorization from the accused to represent them and submit necessary documents to the CIDCO and other authorities. The learned APP further submits that the applicant No.1 has already withdrawn the suit filed by him. It is submitted that even though no right, title or interest was formally transferred in favour of applicant No.1 he is party to agreement in favour of M/s. Tirupati Land Infrastructure Pvt. Ltd. and received Rs.48 Lakhs. It is submitted that during the course of investigation it was found that the forged order of the court was given to the accused by the present

applicants. It is submitted that considering the nature of offence, the applicants may not be released on anticipatory bail.

7. Admittedly, the forged order of the civil court was submitted to the CIDCO. It appears that even before the execution of formal agreement of plot in question by the CIDCO in favour of accused, the present applicant No.1 got executed the irrevocable power of attorney from them. At this stage, the statements of the co-accused that the forged order of Civil Court was given to them by the present applicants cannot be ignored. It appears that applicant No.1 has received Rs.48,00,000/- from Tirupati Land Infrastructure, though no right, title or interest in the plot in question was formally transferred in his favour. Considering the facts and circumstances of the case, I am not inclined to grant anticipatory bail to the present applicants. In the result, the following order is passed :

ORDER

Application is rejected.

(N.R. BORKAR, J.)

KANCHAN
PRASHANT
DHURI

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by KANCHAN
PRASHANT
DHURI
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