

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

ANTICIPATORY BAIL APPLICATION NO. 3107 OF 2021

Vijay Maruti Dhone ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3202 OF 2021**

Abhijeet Trimbak Shivange ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3108 OF 2021**

Ramchandra Kisan Wadekar & Anr. ...Applicants
Vs.
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3148 OF 2021**

Surendra Pandurang Bhujbal ...Applicant
Vs.
The State of Maharashtra ... Respondent

**WITH
ANTICIPATORY BAIL APPLICATION NO. 3203 OF 2021**

Sunil Kewalchan Desarda ...Applicant
Vs.
The State of Maharashtra ... Respondent

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Mr. Amey Deshpande, for the Applicant in all ABAs.
Mr. A. R. Kapadnis, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.
DATE : 4 APRIL 2022

P.C.

. All these Applications, seeking anticipatory bail, arise out of Crime No.1084/2021 of Police Station Kondwa, Pune, under Section 406, 420, 447 and 452 of IPC.

2. The aforesaid crime is registered on the basis of the complaint dated 7 December 2021 lodged by Sohail Rafiq Sayyad.

3. I have heard the learned counsel for the parties. I have also gone through the FIR and the sale deed dated 7 November 2012.

4. The record discloses that interim protection has been granted to the Applicants in all these Applications. According to the informant, in the year 2012, he had purchased 460 guntas of land from out of field Survey No.27/1 of Yewalewadi Pune from Applicant Vijay Dhone alongwith Ramdas Katke, Vishal Sakor and Dadasaheb Katke. The land was purchased in the name of informant alongwith Zeenat Samir Sayyad and Shahida Rafiq Sayyad and others. However, when the informant / the purchasers had gone to take possession, one Rohan Shantaram

Kamthe who is the grandson of the original owner Vithabai Dalvi was present there and claimed that he is in possession of the land.

5. The informant claims that under an agreement with Rohan Kamthe, he got possession of 460 guntas of land which was again given in possession of Rohan Kamthe who is cultivating the same. He states that in the year 2013, 230 guntas of land from out of the same field was agreed to be purchased from Vijay Dhone, Madhukar Fadtare, Ramchandra Wadekar and an amount of Rs.9 Lakhs was paid by cheque to Vijay Dhone and Rs.21,000/- in cash by way of earnest. However, it transpired that the land was not admeasuring 230 guntas and therefore the transaction was not carried further.

6. The informant claims that till 2019, Vijay Dhone, Ramchandra Wadekar have not given possession of land. Hence, a notice was issued on 10 October 2019 claiming possession informing that else under an agreement with Shantaram Kamthe, the grandson of the original owner, the informant would obtain possession.

7. As the possession was not handed over, another agreement was entered into with Rohan Kamthe for obtaining possession of 230 guntas of land.

8. It is the material allegation that in August 2021, the Applicant Vijay Dhone alongwith Madhukar Fadtare, Ramchandra Wadekar had sold 230 guntas of land to Abhijeet Shivnage, Nikhil Satpute, Sunil Deshpande and Suresh Bhujbal behind back of informant. It is further claimed that Rs.9,21,000/- paid to Vijay Dhone have not been returned.

9. On 4 January 2021, Rohan Kamthe telephonically told the informant that purchaser Abhijeet Shivnage alongwith some labourers came on the land who were putting a wire compound and digging a borewell. The matter was reported to the police. In short, according to the informant, the Applicant Vijay Dhone alongwith Madhukar Fadtare and Ramchandra Wadekar had accepted Rs.9,21,000/- from him for sale of 230 guntas of land which was sold to Abhijeet Shivnage and others behind his back and thereby have cheated the informant. It is further alleged that in respect of 460 guntas of land there was an attempt to take forcible possession.

10. A bare perusal of the FIR shows that the alleged transaction between the informant and others and the Applicant Vijay Dhone and others dates back to the year 2012/2013 and even according to the informant, the possession was not delivered till 2019.

11. The learned counsel for the Applicants submitted that the informant is claiming to have paid amount of Rs.9 Lakhs as consideration for the subsequent transaction, which is in fact part of the consideration in the sale deed of the year 2012.

12. Be that as it may, the dispute appears to be predominantly of civil nature about the enforcement of the contract of the year 2013 and the effect of the sale deed of the year 2012 and a dispute about the alleged encroachment / attempt to take possession. It is necessary to note that even according to the complainant, the possession was not delivered till 2019 and a notice was issued on 10 October 2019.

13. Considering the over all circumstances and having regard to the fact that the evidence is of a documentary nature, the Criminal Applications are disposed of in the aforesaid terms.

ORDER

(i) In the event of their arrest, in connection with investigation of Crime No.1084/2021, registered with Police Station Kondhwa, Pune, the Applicant Vijay Maruti Dhone (ABA No. 3107/2021), Applicant Abhijeet Trimbak Shivnage (ABA No.3202/2021), Applicant No.1 Ramchandra Kisan Wadekar and Applicant No.2 Madhukar Shankar Phadtare (ABA No.3108/2021), Applicant

Surendra Pandurang Bhujbal (ABA No.3148/2021) and Applicant Sunil Kewalchan Desarda (ABA No.3203/2021), be released on bail on their executing a P.R. Bond in the sum of Rs.20,000/- each with one or two sureties each in like amount.

(ii) The Applicants shall report to the Investigating Officer as and when called.

(iii) The Applicants shall cooperate with the Investigating Agency.

(iv) The Applicants shall not tamper with the prosecution evidence.

C.V. BHADANG, J.