

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

ANTICIPATORY BAIL APPLICATION NO. 3564 OF 2022

Ram Damu @ Damodar Bhoir	...Applicant
Versus	
The State Of Maharashtra	...Respondent

Adv. Subodh Desai i/b Vivek Rane for applicant.

Mr. S.V. Gavand, APP for State.

PI Vikram Mohite, Shantinagar Police Station, Bhiwandi is present.

CORAM: M. S. KARNIK, J

DATED: DECEMBER 22, 2022

PC:-

1. Heard learned counsel for the applicant and learned APP for State.
2. This is an application for pre-arrest bail. The applicant is apprehending arrest in connection with C.R. No. 45 of 2018 dated 09/02/2018, registered with Shantinagar Police Station, for the offence punishable under sections 406, 420, 465, 467, 468, 471, 474 and 34 of the Indian Penal Code, 1860.

3. The complaint came to be registered at the instance of one Mr. Vasant Laxman Bhoir. The complainant and the applicant are related to each other. The dispute is in respect of the ancestral property. It is alleged that the share of the complainant was dealt with by the applicant and his father on the basis of forged power of attorney to which the applicant was a witness. The said property was developed as far back in the year 2010. The criminal complaint was filed only in June-2017 before the Judicial Magistrate First Class, Bhiwandi. Pursuant to the order passed under section 156(3) of Code of Criminal Procedure, 1973, the present C.R. came to be registered. There are civil proceedings pending between the applicant and the complainant. It is pointed out that an application for injunction came to be filed by the complainant has been rejected by the trial Court.

4. My attention is also invited to the order dated 07/12/2022 in Anticipatory Bail Application No. 2856 of 2022, filed by Sanjay Nemchand Dodhia, who is a developer and also an accused in the said crime. It is also alleged that the developer was

involved along with the present applicant. Paragraph nos. 3, 4, 5 and 6 of the said order read thus :-

"3 The learned senior counsel Mr.Ponda appearing for the Intervenor wants this Court to compare the signatures on these documents with those placed in the compilation and another ground which he would press into service, is the similarity in the number of the documents under which the sale deeds are registered. Apart from this, he would submit that the transaction was entered into with Adrika Developers Pvt. Ltd inform of Memorandum of Understanding dated 14/9/2017 where, for a land from Survey No.47/3 admeasuring 650 sq.m, the consideration fixed was Rs. Nine crore. He would therefore submit that it is improbable to believe that the consideration which was agreed was Rs.15 lakhs and this is also reason to believe that the transaction is not genuine.

4 Mr. Gole, the learned counsel for the applicants has placed on record the mutation entries and the pherphar register, where immediately on purchasing the land from the brother of the complainant, on 23/3/2010, their names were mutated on the land in Survey No.39/18 vide mutation entry no.907. After this, it is submitted that vide mutation entry no.927, the name of the subsequent purchaser Deepak Kishan Goradiya and Raju Vora who had purchased the land from the applicants is also mutated. It is argued that the column of pherphar entry would reveal that the notices were issued and no objections were received and consequently, pherphars resulted into the name of the applicant as well as the subsequent purchasers being recorded in the land records. This entire thing has transpired in the year 2010 and therefore, the submission is, if at all the Investigating Officer desire to compare the signatures and hold the applicants responsible for forging them, the samples of their signatures as well as thumb

impression can be obtained, but this would not warrant any custodial interrogation, since an attempt is made to look into this aspect after more than a decade.

5 Mr.Ponda for the complainant would submit that the endorsement on the pherphar of according no objection by the complainant as required under the provisions of Maharashtra Land Revenue Code, has also been forged. The Investigating Officer shall also advert to the said aspect of the matter.

6 I am in agreement with the submission of Mr. Gole, since the case of the prosecution is based on the accusation that the signatures of the complainant are forged and an inquiry is sought to be made pursuant to a complaint lodged with the Magistrate u/s.156 of Cr.P.C. At this stage, I deem it appropriate to protect the applicants by directing them to report to the Investigating Officer, who shall obtain their signatures as well as thumb impression and forthwith, forward it for analysis to ascertain, whether they have forged the signatures of the complainant."

(emphasis supplied)

5. It is contended by the learned APP that the custodial interrogation of the application is necessary. I find that the civil proceedings are pending between parties. They are related to each other. The complaint was filed by the complainant as late as in 2017, though the development was started in the year 2010. The complainant was well aware of the relevant entries in the revenue records. The Investigating Officer may obtain the signatures of the applicant as well his thumb impression and

forward it for analysis whether he has forged the signatures of the complainant. Learned counsel for the applicant assured that the applicant will cooperate. In my opinion, in such circumstances, the custodial interrogation of the applicant is not necessary. Hence, the following order.

ORDER

(a) In the event of arrest of the applicant in connection with C.R. No. 45 of 2018 dated 09/02/2018, registered with Shantinagar Police Station, the applicant- Ram Damu @ Damodar Bhoir, be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(b) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and should not tamper with evidence;

(c) The applicant will co-operate in the investigation;

(d) The applicant shall report to the Investigating Officer of the concerned Police

Station on 26/12/2022, 27/12/2022 and 28/12/2022 between 10.00 am and 12.00 noon and thereafter as and when called.

6. The application is disposed of.

(M. S. KARNIK,J.)