

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [ABA] NO. 245/2021.

Mukunda Shamlal Ghate.

-VERSUS-

The State of Maharashtra, through P.S. Beltarodi, District Nagpur.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri A.V. Gupta, Senior Advocate with Shri A.A. Gupta,
Advocate for the Applicant.

Shri M.J. Khan, A.P.P. for the Non-applicant.

Shri S.S. Sitani, Advocate for the Informant.

CORAM : VINAY JOSHI, J.

DATE : JANUARY 05, 2022.

Heard.

2. Apprehending arrest in Crime No.145/2021 registered with Beltarodi Police Station, District Nagpur for the offence punishable under Sections 420, 465, 467, 471 read with Section 34 of the Indian Penal Code, the applicant is claiming pre-arrest bail.

3. Besides usual grounds, it is argued that the applicant is no way concerned with the

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transactions entered into by the two Societies regarding sale of plots. Particularly, neither the applicant executed first or second sale deed of plot no.127 in respect of which the informant has raised grievance. It is submitted that absolutely there is no material against the applicant to show his complicity in the crime.

4. The State has resisted bail by filing reply-affidavit. The prosecution case in brief has been narrated. It is contended that the applicant was instrumental in getting sale deeds executed to various plot holders. The applicant was well aware that the Crown Cooperative Society was de-recognized, still certain transactions were entered, on which the applicant stood as a witness. It is stated that some of the witnesses gave statement that the applicant has played an important role in pressurizing the Society office bearers to execute sale deeds. The applicant has also received consideration of those sale deeds. The learned Counsel appearing for the informant also opposed

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grant of bail.

5. At the instance of report dated 01.04.2021, lodged by the informant Rahul Raut, aforesaid crime came to be registered. The informant has narrated a long history of litigation. Precisely it is his grievance that plot no.127 was already sold to one Nandanwar by Milind Cooperative Housing Society. Lateron it was sold to one Chandrakala and then to one Mukund Tajne. Despite that on 21.05.2001, the same plot no.127 was sold by the office bearers of Milind Cooperative Housing Society to him, hence, the report.

6. The first information report no where discloses that either of the sale deed was executed by the applicant. It reveals from the police papers and the available material, that initially 9 Acres of land was owned by applicant's father and uncle. Out of which 2 Acres of land was sold on 21.01.1987 to Crown Housing Society and then again 3 Acres of land to the same Society on

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05.07.1988. Likewise, another 4 Acres of land was sold to Milind Cooperative Housing Society on 21.04.1988. Admittedly these sale deeds were executed by applicants father and uncle. The applicant only remained as a witness to one of the sale deed of 2 Acres executed to Crown Society. It is the allegation that though Crown Society was de-recognized, plots were sold by the office bearers of the said society. Likewise, there was a mutual agreement between the two societies on which Milind Society has entered all further transactions of plots. It is the grievance that Milind Society has sold same plot to different persons. It is pointed out that while executing 15 sale deeds by Milind Society to different purchasers, the applicant stood as witness.

7. Learned A.P.P. took me through the mutual agreement executed between the Societies in which Milind Society undertook the responsibility to sell plots. It is to be noted that though there are allegations of sale of same plot to

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different persons, admittedly applicant was not the executant of those sale deeds. Neither it is prosecution case that the applicant stood as witness to the sale deeds executed in respect of plot no.127. Only vague allegations are made that the applicant was aware about the transactions in between the Societies.

8. As per informants case, he has purchased plot No.127 on 21.05.2001, however, admittedly for next 20 years he has not taken any action. It is a matter of record that the informant has filed a civil suit bearing Special Civil Suit No.95/2021 in the month of January 2021, seeking cancellation of earlier sale deed of plot no.127 and for possession. In such a background by putting same grievance, existing police report has been filed.

9. It is evident that entire land was owned by applicants forefathers, who have sold the same. The layout was prepared by both the Societies of which applicant was neither office bearer, nor sold

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either of the plots. Prima facie, there is no substance in the contention that the applicant was aware of fraudulent transactions and he had pressurized the office bearers of the Society to sell the plots. Already civil litigation is pending between the parties. The prosecution is unable to show that the applicant has either deceived or prepared false documents. Considering the nature of litigation and the vague allegations leveled against the applicant, his liberty can be protected. Hence, the following order.

- (i) Criminal Application is allowed and disposed of.
- (ii) The interim protection granted to the applicant vide order dated 09.04.2021, is hereby made absolute on same terms and conditions.
- (iii) The applicant/accused to continue attend the concerned Police Station as directed earlier, till filing of the charge sheet or for 90 days, which ever is earlier.

JUDGE

Rgd.