

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 422 OF 2023

Mohd. Abdul Nadeem Mohd. Abdul Naeer Applicant

Versus

The State of Maharashtra Respondent

Mr. S. S. Kulkarni, Advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. S. S. Deshpande, Advocate holding for Mr. C. B. Choudhari,
Advocate for the informant.

WITH

ANTICIPATORY BAIL APPLICATION NO. 423 OF 2023

Swapnil Suresh Joshi Applicant

Versus

The State of Maharashtra Respondent

Mr. S. S. Kulkarni, advocate for the applicant.

Mrs. G. L. Deshpande, APP for the State.

Mr. S. S. Deshpande, Advocate holding for Mr. C. B. Choudhari,
Advocate for the informant.

CORAM : R. M. JOSHI, J.

RESERVED ON : 16th JUNE, 2023.

PRONOUNCED ON : 21st JUNE, 2023.

ORDER :

1. Applicants are apprehending arrest in connection with Crime No. 119/2023 registered with Taluka Jalna Police Station, Dist. Jalna for offences punishable under Sections 420, 466, 468, 471 read with Section 34 of the Indian Penal Code, on the basis of information given by Kalpana Ramniwas Goud.

2. It is the contention of the first informant that she had purchased plot No. 20 from Survey No. 469 from Mohd. Abdul Nadeem, partner of Gajanan Plots and Housing Sales Corporation vide registered sale-deed No. 870/1993. She further contended that when she applied for P.R. Card in the year 2016, it was found that upto the year 2015, name of Gajanan Plots and Housing Sales Corporation was recorded as owner of the said plot. However, by entry dated 25th April, 2019, name of Prashant Kulkarni was mutated therein. Thereafter, it appears that his name was removed and name of Siddique Jarina Begam was included on the basis of a partition deed. It is alleged that behind the back of the informant, said entry was taken. It is further contention of the informant that with the use of false documents, applicant Mohd. Abdul Nadeem has sold the property to different persons from Survey No.469. On the basis of this information, offence came to be registered.

3. Learned counsel for the applicants states that the record indicates that the name of the sister of applicant Mohd. Abdul Nadeem was included in the list of allottees which was prepared by father-in-law of the informant as back as in the year 1991. He also drew attention of the Court to the partition effected between the partners of Gajanan Plots and Housing Sales Corporation whereby the properties which were not sold were distributed between the partners. It is contended that said document is executed in the year 2020 and the same is signed by husband of the informant who is the legal heir of her father-in-law Radhakishan Goud. It is submitted that contention of the informant does not deserve acceptance for the reason that if the informant had purchased the plot long back in the year 1993, then it does not stand to any reason why application for incorporating her name in the property record was made after lapse of a long period. It is submitted that infact the dispute between the parties is civil in nature and in order to pressurise the applicant, criminal complaint has been filed. He further submits that the alleged sale-deed of the informant pertains to plot No. 20 in Survey No. 469. However, the plot allotted to Siddique Jarina Begam was different. Thus, it is contended that it is not a fit case wherein custodial interrogation of the applicant is necessary.

4. Learned APP opposed the said submission by relying upon the investigation carried out till date. It is contended that prima facie there is evidence on record to suggest that the entries taken in the revenue record are false and bogus and they are managed by the applicants. It is also alleged that applicant Mohd. Abdul Nadeem had sold the plots and has received consideration and therefore, he is the beneficiary of this crime. With regard to plot No. 20, it is contended that said plot if at all belongs to his sister, there is no reason why applicant would sell it. Thus, according to learned APP, custodial interrogation of the applicant is necessary.

5. Though learned counsel for the informant was permitted to assist learned APP, however, he forcefully argued that the informant is a whistle blower and that not only offence has been committed in respect of Plot No. 20 but even other properties belonging to the said partnership firm are misappropriated by the applicant. It is his contention that prima facie perusal of the P.R. Card shows that there is insertion of entry and that not only the informant but others are also cheated by the applicant.

6. So far as applicant in Anticipatory Bail Application No. 422/2023 is concerned, it appears from record that Gajanan Plots and Sales Corporation owes properties including Survey No.469. In the partnership deed, there is allotment of plot to various persons from Survey No. 31, 474 and 469. Partnership Deed between the partners indicates that some properties were left out to be sold and those properties were partitioned between them. Pertinently, the said document is executed by none other than husband of the informant. As per the arguments advanced by learned APP and learned counsel for the informant, Plot No. 20 was allotted to one of the partners Anuj Saraswat however, plot allotted to this partner is from Survey No. 474 and not from Survey No. 469. Allotment of Plot No. 20 in the name of Siddique Jarina Begam is from Survey No. 469. As dispute was made during the course of argument as to whether the father-in-law of the informant had written communication to the Collector wherein the name of Siddique Jarina Begam was shown as one of the allottees and members, report was called from the Collector Jalna. Said report dated 14th June, 2023 indicates that the Collector, Jalna had received letter dated 3rd July, 1991 issued by R. B. Gaud, partner of Gajanan Plots and Housing Sales Corporation. Along with said letter, list of members is given wherein at Serial No. 20, name of Siddique

Jarina Begam appears. It is thus clear that there is some document to show that there was allotment of the plot to her which is prior in time than the sale-deed claimed to have been executed in favour of the informant. It would be a matter of dispute before Civil Court to determine as to who has right in the said plot. In the light of decision on allotment of plot to this lady, further decision with regard to the genuineness of mutation entry in her name could be considered.

7. It is further alleged that the entries are taken by the applicant in respect of other plots on the basis of partnership deed. There is no dispute made at this stage even by the informant that her husband had executed the said deed of partition of properties of firm as legal representative of his father. Since there is no dispute about the fact that there was deed of partition, any entry taken on the basis of the same cannot be prima facie considered to be bogus entry. There is reason to believe that it is a civil dispute and being given colour of criminal case. There is no denial of the fact that the father-in-law of the informant was one of the partners of the said firm and there are criminal proceedings initiated against him for misappropriation of property of the firm. This fact coupled with the

documentary evidence on record indicates that it could be a dispute between the partners interse.

8. As far as applicant in Anticipatory Bail Application No. 423/2023 is concerned, prima facie perusal of the record indicates that his name is not appearing in the First Information Report nor in the investigation carried out till date any evidence is seen to infer his involvement in this crime.

9. Considering the aforesaid facts, this appears to be essentially a civil dispute. The possibility of lodging report against the applicant owing to the said dispute between the parties cannot be ruled out. Appropriate direction to the applicants to appear before the Investigating Officer and cooperate in further investigation would be sufficient for further effective investigation in this Crime.

10. In view of above, applications are allowed. Hence, the following order :-

ORDER

- (i) Applications are allowed.

(ii) In the event of arrest of applicants in connection with Crime No.119/2023, registered with Taluka Jalna Police Station, Dist. Jalna, for the offences punishable under Sections 420, 466, 468, 471 read with Section 34 of the Indian Penal Code, they be released on bail on furnishing PR Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) each with one solvent surety each in the like amount.

(iii) They shall attend the concerned police station as and when called by the Investigating Officer.

(iv) They shall not contact the witnesses directly or indirectly.

(v) He shall not interfere with the evidence in any manner whatsoever.

(vi) They are further directed to cooperate the investigating agency for further investigation.

(R. M. JOSHI)
Judge