

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1525 OF 2022

Govind Dhondiram Gope

Applicant

Versus

The State of Maharashtra & another

Respondents

Mr. M. M. Patil, Advocate for the applicant.

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

CORAM : R. M. JOSHI, J.

DATE : 23rd JUNE, 2023.

PER COURT :

1. Applicant apprehends arrest in connection with Crime No. 0305/2022 registered with Shivaji Nagar Police Station, Dist. Latur, for the offences punishable under Sections 420, 465, 467, 468, 471 of the Indian Penal Code and Section 82 of Indian Registration Act.

2. First Information Report is lodged by the Sub-Registrar of Assurances, Latur on the basis of complaint made by Santosh Nagargoje and Bajrangsingh Surajsingh Thakur who are the office bearers of a political party. On the basis of their complaint, an enquiry was conducted wherein it is found that the document i.e.

sale-deed executed by the present applicant registered with the said office vide Registration No. 10965/2021 forms bogus NA order issued by the Sub-Divisional Officer. It is alleged that the present applicant by preparing such bogus orders has executed the sale-deed and thereby loss to the revenue of the State is caused.

3. Learned counsel for the applicant states that offence punishable under Section 82(b) of the Indian Registration Act would attract only to the person who has presented document for registration. In order to support his submission that it was a purchaser who has presented the document, he relied upon the challan which shows that it was the purchaser who had presented the document. Apart from this, it is submitted that the recitals of the sale-deed clearly indicate that what is mentioned by the present applicant therein is order issued by the Tahsildar which he claims to be NA order. He contends that since he only executed the document he is not aware as to how the alleged forged order of Sub-Divisional Officer became part of the document. It is further submitted that the document which was relied upon by the applicant herein is not a fabricated document which fact may be ascertained from the certified copy thereof issued by the office of Tahsildar, Latur on 7th February,

2023. It is therefore his contention that it is a fit case wherein liberty of the applicant be protected.

4. Learned APP opposed the application contending that after issuance of Government Resolution dated 12th July, 2021, there was a ban on transfer of properties in respect of fragments without obtaining appropriate orders from the Tahsildar or the Sub-Divisional Officer. She contends that the order of Sub-Divisional Officer as well as the order of Tahsildar are found to be bogus in view of the report submitted by these authorities. She further contends that there are statements of purchaser as well as broker showing that the documents used for the purpose of preparation of sale-deed were provided by the present applicant. Thus according to her, considering these aspects, custodial interrogation of the applicant is necessary more particularly to ascertain as to how bogus NA orders were prepared by using seals of the concerned office.

5. Perusal of the record indicates that the applicant is the owner of the property in respect of which sale-deed is executed. There is material on record to indicate that though the applicant has executed said sale-deed, it was presented for registration by the

purchaser. As regards recitals of the sale-deed, there is mention about NA order issued by the Tahsildar. As far as said document is concerned, prima facie there is material on record to indicate that it is not fabricated document. It may be open for the prosecution to claim that this is not NA order however, it cannot be accepted that this fabricated and bogus document is created by the applicant. Perusal of statement of purchaser and broker indicates that the NA order issued by the Sub-Divisional Officer was never handed over by the applicant to the purchaser. Therefore, there is substance in the contention of learned counsel for the applicant that he cannot be held responsible for annexing said document to the sale-deed because he is not presenter of the said document to the Sub-Registrar of Assurance.

6. Having regard to the aforesaid facts, it is a fit case to protect liberty of the applicant. The interim order exists since 17th November, 2022. There is nothing on record to indicate that the applicant has mis-used his liberty. Hence, application is allowed in terms of the interim order.

(R. M. JOSHI)
Judge