

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.933 OF 2022

Mahesh Namdev Kubade	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Dilip Shinde a/w Mr. Mukund Mane, for the Applicant.

Mr. Amit A Palkar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JULY 10, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.101 of 2022 registered with Islampur police station for offences punishable under Sections 420, 447, 468, 471 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), the applicant is seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.').

2. According to the prosecution, the complainant Jayant Sampatrao Patil had lodged report based on 17 February 2022, he was purchased 2R portion out of land bearing Gat no.620/B, admeasuring 1H 1R, situated at Village Peth, Smt. Chaku Urunkar for consideration of Rs.1,50,000/-. It was mentioned in the sale-deed that the said plot was shown as private plot No.21. After purchasing the said plot he had erected compound to said plot. His name along with other 10 persons name were recorded to the

7/12 extract. During pandemic situation of COVID-2019 he had not visited the said plot for one and half year. By taking advantage of this fact he came to know that the boundary of his plot were destroyed. Applicants were claiming their possession over his plot. They have denied to show their sale-deeds and drove them out of the plot. Therefore, he took search of the name entered of applicants to the plot in Gat no.620/B. At that time he came to know that, Mahesh Namdeo Kubde has sold 25 R portion out of Gat no.620/A, situated at Village Peth to 10 persons including applicants. But applicants were showing their ownership on the plot in Gat No.620/B. Therefore, he has obtained the copy of sale-deed purchased by Mahesh Kubade and came to know that he had purchased the property in Gat no.620/A by preparing bogus on-line 7/12 extract. His vendors have no land in Gat No.620/A. But he had purchased the property in Gat No.620/A by preparing bogus on-line 7/12 extract and sold said property to applicant and other persons. Applicant has dispossessed him from his plot. Therefore, he lodged the report against he applicant to the respondent police station.

3. The applicant, therefore, filed application under Section 438 of Cr.P.C. before learned Sessions Judge which came to be rejected by order dated 16 March 2022. Aggrieved thereby, the applicant has filed the present anticipatory bail application.

4. On perusal of the material on record, it prima facie appears that the applicant purchased property bearing Gat No.620/A, admeasuring 25 R, in the year 2017. The applicant sold Gat No.620/A to 7 persons. The boundaries of property purchased by

the applicant are same as boundaries of sale-deed in favor of 7 persons. Prima facie, boundaries of the property would prevail over the Survey number. Since the boundaries of the properties sold by the applicant are of 620/A i.e. property purchased by the applicant, the applicant has made out a case for grant of relief under Section 438 of Cr.P.C. Hence, following order:

- a) In the event of arrest in connection with C.R. No.101 of 2022 registered with Islampur police station for offences punishable under Sections 420, 447, 468, 471 r/w 34 of IPC, the applicant be released on bail on furnishing P.R. bond of Rs.25,000/-, along with one or two sureties in the like amount.
- b) The applicant shall remain present before the concerned police station on 12th, 14th and 17th July, 2023 between 11:00 am to 2:00 pm thereafter, as and when called by the investigating officer.
- c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.
- d) The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.
- e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not

change the residence till the final disposal of the case.

5. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)