

Chandrashekhar Wamanrao Mithapalli ...Applicant
vs.
The State of Maharashtra ...Respondent

CORAM : N. J. JAMADAR, J.
DATE : AUGUST 28, 2023

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. This application is preferred seeking pre-arrest bail in connection with C.R. No. 465 of 2023 registered at Sadar Bazar police station for the offences punishable under sections 420, 465, 467, 468 and 471 read with 34 of Indian penal Code, 1860.
3. Ramkrushna Asade, the father of the first informant, had purchased land admeasuring 41 R (old survey No. 244, new survey No.39) situated at Majrewadi under registered Sale Deed dated 17th September, 1998 from its original holder Sukanna Kouchikorvi. Ramkrishna Asade expired on 11th July, 2001.
4. The first informant claimed that in the year 2017 when he

visited the said property, he found that people were residing thereat by erecting structures. Further inquiry revealed that Wamanrao Mithapalli and his son Chandrashekhar, the applicant, had executed instruments in favour of number of persons on the basis of said forged Power of Attorney. Three of the instruments seem to have been executed by the applicant on 7th March, 2015, 12th March, 2015 and 9th June, 2015 in favour of the purchasers. Since the father of the first informant had passed away on 11th July, 2001, the instruments executed by the applicant and his father Wamanrao Mithapalli, purportedly on the basis of Power of Attorney, were completely fraudulent. Hence, the report.

5. Mr. Sarda, learned counsel for the applicant submitted that Wamanrao, the father of the applicant, passed away on 15th January, 2015. There is inordinate delay in lodging the first information report. No explanation much less reasonable one has been furnished by the first informant. In the circumstances, since the offences revolve around the legality and validity of the instruments purportedly executed by the applicant, the custodial interrogation, as such, is not necessary. Mr. Sarda submitted that the applicant can be put to appropriate terms to facilitate further investigation.

6. Learned APP resisted the prayer for pre-arrest bail.

7. Few facts appear to be rather incontestible, even at this nascent stage. One, the death of Ramkrishna Asade, who allegedly executed the Power of Attorney in favour of the Wamanrao, on 11th July, 2001. Two, learned counsel for the applicant fairly submitted that, three instruments have allegedly been executed by the applicant on 7th March, 2015, 12th March, 2015 and 9th June, 2015. Even if the case of the applicant is taken at par, prima facie, the said instruments appear to have been executed after the death of the principal. Ex facie, the document on the strength of which the applicant professed to execute the instruments for transfer of the plots, does not enure to the benefit of the applicant.

8. In the aforesaid view of the matter, investigation is indispensable to unearth the alleged fraud and the persons who were privy to the said fraud. It is true the offences revolve around the documents. However, the allegations are such that custodial interrogation of the applicant is necessary for an effective investigation. It is the applicant alone who can throw light on the circumstances in which the instruments of transfer came to be executed after the death of the principal to the prejudice of not only the first informant but also the unsuspecting purchasers, even on the assumption that there did exist a Power of Attorney in favour of deceased Wamanrao and the applicant.

9. Moreover, it is the allegation of the first informant that the Power of Attorney allegedly executed by the deceased Ramkrishna Asade on 19th June, 2000 was itself forged and fabricated. To facilitate investigation into that aspect as well the custodial interrogation of the applicant is indispensable.

10. In view of the aforesaid nature of the allegation, the aspect of delay pales in significance. Hence, I am not persuaded to exercise the discretion in favour of the applicant.

Hence, the following order.

ORDER

- 1] The application stands rejected.
- 2] It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

(N. J. JAMADAR, J.)