

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 203 OF 2021

Mehboob A. Shaikh ...Applicant
V/s.
The State of Maharashtra and anr. ...Respondents.

Mr. A.B. Tajane i/b Mr. Yogesh Thorat for the Applicant.
Mr. Amit Palkar, APP for the Respondent/State.
Ms Rui Danawalla i/b Mr. Umesh Mankapure for the Respondent
No.2/Complainant.

CORAM : N.R. BORKAR, J.
DATE : 16.02.2023.

P.C. :

1. This is an application under Section 438 of Code of Criminal Procedure for anticipatory bail.
2. On 22 January 2021, this Court passed the following order:

“1. The Applicant is seeking anticipatory bail in connection with C.R. No 955 of 2020 registered with Wanawadi Police Station, Pune City, Pune on 31/12/2020, under sections 420, 465, 467, 468, 471, 447, 506 a/w 34 of the Indian Penal Code.

2. The FIR is lodged by one Ursula Hari Swamy. She has stated that her brother had purchased piece of land bearing Survey No. 75/7/8, Sayyednagar, Pune admeasuring 1290 Sq. feet from one Shabbirbhai Tayyabbhai Ghodnadiwala on 30/05/1988. After death of her brother, she was legal owner of the land but she came to know that the present applicant was trying to tress-pass on her land and to evict her forcibly.

3. It is alleged in the FIR that, one forged

document was executed in 2016 wherein the alleged owners Dinkar Susgohere and Shyam Susgohere sold the same piece of land to the present applicant. One Mr. Shyamrao Dagdu Gaikwad was named as one of the parties to the execution of that document. On this basis the FIR is lodged.

4. Heard Mr. S.V. Marwadi i/b Narayanganesh Nadar, for the Applicant, Smt. J.S. Lohokare, APP for the State/Respondent and Mr. Umesh Mankpure, for the Intervenor.

5. Mr. Marwadi, the learned counsel for the applicant submitted that he is bonafide purchaser and he had purchased that land from Dinkar Susgohere and Shyam Susgohere.

6. The learned Counsel for the intervenor submitted that Shyamrao Gaikwad had got this land based on some of power of attorney executed by original owner Shabbirbhai Tayyabbhai Ghodnadiwala in favour of Shyamrao Gaikwad. But no such document was in existence. The transaction by which Dinkar Susgohere and Shyam Susgohere became owners was itself fraudulent.

7. The learned APP does not have instructions and he is seeking time.

8. The intervenor has filed his intervention application but it is not numbered. There are certain documents annexed to that application which assume importance in this case.

9. By considering submissions made by the learned advocate for the applicant, today I am protecting the applicant by granting interim protection to the applicant till the next date.

10. Hence the following order

ORDER

(i) In the event of his arrest in connection with C.R. No.955/2020, till the next date, the Applicant is directed to be released on bail on his executing

P.R. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) This order shall operate till 16/02/2021.

(iii) The applicant shall attend the concerned Police Station on 2nd, 3rd, 4th February 2021 between 1.00 p.m. to 4.00 p.m. and shall cooperate with the investigation.

(iv) Stand over to 16/02/2021."

3. I have perused the First Information Report. According to the complainant in the year 2012 itself she had learnt about the bogus sale deed dated 4 October 1989 executed by the purported power of attorney of original owner in favour of the predecessor-in-title of the present applicant. It is not understood as to why the report was not lodged at that time. Considering the overall facts and circumstances, I am inclined to allow the present application. Accordingly, the interim anticipatory bail granted to the applicant by the order dated 22 January 2021 is hereby confirmed.

4. The Application stands disposed of.

[N.R.BORKAR, J.]