

AGK

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

ANTICIPATORY BAIL APPLICATION NO.304 OF 2023

Dilip Balkrishna Nalavade ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Satyavrat Joshi i/by Ms. Shivani S. Kondekar for
the applicant.

Mrs. Veera Shinde, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 26, 2023

P.C.:

1. Apprehending arrest in connection with C.R. No.791 of 2022 registered with Sangli City Police Station, District Sangli for offences punishable under Sections 420, 467, 468 and 34 of the Indian Penal Code, 1860, the applicant is seeking relief of pre-arrest bail under Section 438 of the Criminal Procedure Code, 1973.

2. According to prosecution, the informant is real estate agent residing at Miraj, District Sangli. According to the informant, in the year 2014 the applicant told him about a land admeasuring 259 acres at village Kotebudruk, Talluka Gaganbavada, District Kolhapur having clear and marketable title. According to the

informant, the applicant accepted the responsibility of conferring valid title free of all encumbrances and to do consequential things required. The applicant told him that the lands in question belongs to Class-II occupancy. In a meeting between the applicant and his friends on one hand and accused Nos.2 and 3 on the other side, rate of Rs.50,000/- per acre was decided. According to the informant, he and his friends in all paid amount of Rs.48,60,000/- to the applicant and accused Nos.2 and 3 jointly. However, on inquiry it was revealed that the owners had already executed registered sale deeds of the properties before entering into agreement to sale with the informant and his friends. Therefore, the informant lodged a report with concerned police station alleging that the applicant along with co-accused have committed offence under Section 420 by accepting amount of Rs.48,60,000/-.

3. The applicant, therefore, approached the learned Sessions Judge which came to be rejected by order dated 23 January 2023. The applicant has, therefore, filed present anticipatory bail application.

4. On perusal of the case papers and material produced on record by the parties, it appears that according to prosecution despite execution of sale deeds, agreement to sale to confer title on the informant and his friends was executed. The allegation against the applicant is that he accepted amount of Rs.21,81,000/- for getting necessary documents, to get the lands re-granted and towards consideration of survey of lands and to pay the agent towards their commission.

5. On perusal of the material on record, at this stage there is no material to show that the applicant had knowledge of sale deeds executed by the owners. Prima facie documents on record indicate that the applicant is co-purchaser along with the informant.

6. To show his bona fides, the applicant has deposited an amount of Rs.22 lakh in this Court without prejudice to his rights and contentions, which corresponds with the amount allegedly received by the applicant from the informant and his friends.

7. In so far as recovery of documents are concerned, according to the applicant, the report itself indicates that the informant got information about the transaction on 18 June 2020 and then he got file of documents.

8. The applicant has no antecedents to his discredit. The offence prima facie appears to be documentary in nature. In view of deposit of amount of Rs.22 lakh by the applicant, there is no necessity of recovery of amount from the applicant. Therefore, in absence of knowledge of the applicant about the previous sale deed and on overall consideration of the nature of allegations, the applicant has made out a case for grant of relief under Section 438 of the Criminal Procedure Code, 1973. Hence, following order:

a) In the event of arrest of the applicant in connection with C.R. No.791 of 2022 registered with Sangli City Police Station, District Sangli for offences punishable under Sections 420, 467, 468 and 34 of the Indian Penal Code, 1860, he be released on bail on furnishing P.R. Bond in the amount of Rs.1 lakh with one or two sureties in the like amount;

- b) The applicant shall remain present before the investigating officer on 28 and 30 June 2023 and 3 July 2023 between 11.00 a.m. to 2.00 p.m. and thereafter as and when called by the concerned 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;
- 9.** The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)