

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

ANTICIPATORY BAIL APPLICATION NO. 412 OF 2023

Bipin Shashikant Kudtarkar ...Applicant

vs.

The State of Maharashtra ...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 566 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 412 OF 2023**

Sanjay Chandrakant More ...Applicant

vs.

The State of Maharashtra and Anr. ...Respondents

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 430 OF 2023**

Sahebrao Dinkar Jadhav ...Applicant

vs.

The State of Maharashtra ...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 565 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 430 OF 2023**

Sanjay Chandrakant More ...Applicant

vs.

The State of Maharashtra and Anr. ...Respondents

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 431 OF 2023**

Arun Gulabrao Nalawade ...Applicant

vs.
The State of Maharashtra ...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 564 OF 2023
IN
ANTICIPATORY BAIL APPLICATION NO. 431 OF 2023**

Sanjay Chandrakant More ...Applicant
vs.

The State of Maharashtra and Anr. ...Respondents

**ANTICIPATORY BAIL APPLICATION NO. 463 OF 2023
(Serial No. 2)**

Rajeshwar Hemchandra Kasar ...Applicant
vs.

The State of Maharashtra ...Respondent

Mr. Vishal Ghosalkar - Advocate for the Applicant in ABA 412/2023
Mr. Anoop U. Patil a/w Mr. Puneet B. Fonia i/by Mr. Diptendu Bose,
Advocate for the Applicant/Complainant/Intervenor in IA 566 of
2023, IA 565 of 2023 a/w IA 564 of 2023.

Sr. Advocate Mr. Manoj Mohite a/w Atharva R. Bingardeve i/by Mr.
Vaibhav R. Gaikwad – Advocate for the Applicant in ABA 463 of
2023.

Mr. Dilip Bodake – Advocate for the Applicant in ABA 430 of 2023
Mr. A. Khandeparkar i/by Mr. Dilip Bodake- Advocate for the
Applicant in ABA 431 of 2023.

Mr. H. J. Dedhia – APP for the State.

Mr. S. R. Deshmukh – Police Officer – Satara City Police Station.

CORAM : S. M. MODAK, J.

DATE : 15th FEBRUARY, 2023

P. C. :-

1. Heard learned Advocate for the first Informant, learned Senior Advocate Shri Manoj Mohite and other respective advocates for all these Applicants-accused and learned APP

2. The first informant wants to participate in all the Anticipatory bail applications. There is an objection about the role of the first informant. There is a reliance on the observations of this Court in case of *Wilson Godinho Vs. Public Prosecutor, High Court of Bombay, Panaji, Goa*¹. This issue can be decided later on. Certainly the first informant has got right to intervene in these proceedings. Hence all interim Applications i.e. Interim Application Nos. 566 of 2023, 565 of 2023 and 564 of 2023 are allowed. He be joined as the Respondent No. 2. Copy of anticipatory bail Applications be served on him. So also the first informant to serve the copy of his Applications and annexures to all the Applicants of anticipatory bail applications through their respective learned Advocates. Applicant-first informant is at liberty to assist the Police by producing necessary

1 AIROnline 2020 Bom 1009

documents.

Hearing in Bail Applications

3. Heard learned Senior Advocate Shri Manoj Mohite and learned Advocate Shri Khandeparkar, Shri Bodake and Shri Vishal Ghosalkar and also heard learned APP. The Anticipatory bail applications of all these applicants came to be rejected by the Court of Additional Sessions Judge, Satara. In different capacities, they have been implicated as accused persons by the first informant – Sanjay Chandrakant More. The offence is registered bearing C.R. No. 70 of 2023 with the Satara City Police Station on 22/01/2023 under Sections 406, 468, 467, 471, 420, 120-B read with 34 of the Indian Penal Code. In all there are 19 accused persons which consist of Ex-managing Committee, Ex-Chairman, present Chairman/committee members of the Sahebrao Deshmukh Co-operative Bank Limited. It consists of the present Chairman. It consists of authorized officer of the bank and Special recovery officer. Some of them are the Partners of the M/s. Crystal Builders and Developers. Some of them are also professionals like an Advocate and Chartered Accountant.

4. The sum and substance of the first informant is that he

has purchased certain plots in a public auction organized in the year 2016. The public auction was organized as the borrowers Vijay Hanumanthrao Shinde and another borrower Arun Gulabrao Nalawade-accused no. 10, who is one of the Applicant, have not repaid the loan sanctioned to them by the bank. Thereafter, the sale in favour of the first informant was confirmed. He has raised the money for paying the purchase price in two manners. One is by obtaining loan from the said bank (which is subject matter of the different recovery proceedings) and from his own fund. His grievance is that on one hand he is required to pay an amount of loan and on the other hand he could not get clear title of those plots.

5. Out of those plots, certain plots were purchased by the Applicant – Arun Gulabrao Nalawade from one M/s. Crystal Builders and Developers. Accused- Vijay Hanumanthrao Shinde signed the sale deed dated 24/03/2014 in two capacities. One as a partner of the M/s. Crystal Builders and Developers and another in individual capacity as borrower. The contention of the first informant is that in fact the said M/s. Crystal Builder's title to the plot is defective. The said Crystal builder purchased some of the plots in the year 2011 by

way of sale deed from the borrower-Vijay Hanumanthrao Shinde. In fact the said Vijay Shinde has mortgaged all the lands in favour of the bank and in spite of that he executed the sale deed. On the objection of the Bank, the name of the Crystal Builder was removed from the 7/12 extract.

6. According to the first informant all these Applicants and other accused persons at different stages flouted the provisions of law and not followed the procedure.

7. So far as the Applicant- Bipin Shashikant Kudtarkar is concerned, learned APP after taking instructions submitted that as on today they were not having materials in order to warrant his arrest. At present he is Chairman of the Bank and earlier he was a member of the Managing Committee and at some point of time, his mother was also Managing Committee Member. This statement is made on the basis of the instructions received from the Investigating Officer Shri S. R. Deshmukh. He reserves his right to press for arrest, if new materials are disclosed during investigation. So he can be granted interim protection.

8. So far as Applicant – Arun Nalawade is concerned, it is contended that he is bonafide purchaser and sale deed in his favour was executed not only by the borrower but also by the Crystal builder whose title is challenged as defective. It is also contended that Bank has also permitted to sale plots when he purchased them. Furthermore, he has obtained a loan from the said bank by submitting certain documents which includes a title certificate and project report. The said Nalawade also executed mortgage deed in favour of the Bank. Though learned APP made an attempt by submitting that the application for loan and the mortgage deed were executed earlier and then sale deed was executed. However according to the learned Advocate, it is not correct but in fact the sale deed was executed on 25/03/2014 and mortgage deed was executed thereafter on 29/03/2014.

9. There is also an allegation against him that the loan sanctioned to him was sanctioned in a speedy manner and the amount of loan in fact is not disbursed to him personally. But that is transferred for clearing earlier dues of the Bank. Be that it may at present, I am inclined to grant him interim protection. The

prosecution is at liberty to point out materials to show that certain irregularities are not mere irregularities but they have been done with a fraudulent intention.

10. So far as Applicant Rajeshwar Hemchandra Kasar and Sahebrao Dinkar Jadhav are concerned. They are the professionals. One is practicing as Chartered Accountant and another is practicing law. There may be certain irregularities in furnishing said title certificate by the Applicant Sahebrao Dinkar Jadhav. That is to say title certificate dated 10/03/2014 certifying the sale deed dated 25/03/2014 in between the Crystal and said Nalawade. It is for the Bank whether accept it or not. Now the Police wants his arrest on the complaint of the first informant who is successful bidder and he wants the Police to investigate all the earlier transactions. At present certainly he is also entitled for the interim protection.

11. So far as the Applicant Rajeshwar Hemchandra Kasar is concerned, he is Chartered Account and on his project report the said Nalawade was able to convince the Bank to grant him loan. It is true that ultimately this is decision of the Bank whether bank loan

on that project report is to be sanctioned or not.

12. Learned APP pointed out that the project report was defective. At this stage, I am also inclined to grant him interim protection. The investigating agency is at liberty to point out other materials against these professionals in order to show that except performing professional capacities they have gone far away and helped their client that is Arun Nalawade. In view of the above the following order is passed :-

ORDER

- (i) Ad-interim protection is granted to all the Applicants.
- (ii) In case of arrest in connection with C.R. No. 70 of 2023 registered with Satara City Police Station Applicants Bipin Shashikant Kudtarkar, Sahebrao Dinkar Jadhav, Arun Gulabrao Nalawade, Rajeshwar Hemchandra Kasar, be released on bail on furnishing Personal bond and Surety bond of Rs. 25000/- each.
- (ii) All Applicants are directed to give attendance to Satara City Police Station on every Saturday at 10 am to 12 noon and co-operate investigating

agency as an when called.

13. Matter be kept on **09th March, 2023.**

[S. M. MODAK, J.]