

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 577 OF 2020

Namdev Sitaram Lad ...Applicant

Versus

The State of Maharashtra and anr. ...Respondents

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Mr. Kuldeep Patil a/w Ms. Saili Dhuru for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

Mr. J. K. Tandalekar Complainant in person, present.

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CORAM : N.R. BORKAR, J.

DATED : 27 MARCH 2023

P.C. :-

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973 for anticipatory bail.

2. The applicant is apprehending his arrest in Crime No. 226 of 2018 registered at Mangaon Police Station, Raigad for the offences punishable under Sections 420, 465, 467, 468, 470, 471 r/w 34 of the Indian Penal Code.

3. On 16 March 2020, this Court passed the following order:

"1.This is an application for anticipatory bail in C.R. No. 226 of 2018 registered with Mangaon Police Station, Dist.- Raigad for offences punishable under Sections, 420, 465, 467, 468, 470 & 471r/w Section 34 of Indian Penal Code.

2.The FIR was lodged on 17th December, 2018. It is alleged that the complainant was owner of the landed property. He intended

to sell the same. One of his relative had introduced him to the applicant. The applicant had initially agreed to purchase the property. He has handed over cheque of Rs.1 Lakh to the complainant. Subsequently, the Power of Attorney was executed in favour of the applicant assigning him authority to execute/register the sale deed in respect to the property with any other person. In pursuant to that the property was sold to Rohan Rajpurkar. Apparently, the entire consideration was not paid by the purchaser of the property. In pursuant to that the Cancellation Deed was executed between applicant, Rajpurkar and the complainant.

3.The contention of the applicant is that suppressing the fact that the sale deed was cancelled by executing Cancellation Deed. FIR is lodged on 17th December, 2018. The alleged transaction was executed in the year 2015. The complainant was party to the Sale Deed. The applicant had executed/registered the Sale Deed in exercise of power contemplated under Power of Attorney.

4.Learned APP submitted that the signature appearing on the Sale Deed is forged. However, it appears that the Cancellation Deed was executed and the Sale Deed has been cancelled. The property has been restored in the name of the complainant, even on 7/12extract the name of the complainant has been mentioned.

5.Considering the nature of dispute it would be appropriate to add the complainant as respondent. It is contended that there is no dispute about execution of Power of Attorney or cancellation Deed. The complainant did not protested that the signature appearing on the Sale Deed is not made by him. In these circumstances, interim protection can be granted to the applicant.

O R D E R

i)In the event of arrest of applicant in C.R. No. 226 of 2018 registered with Mangaon Police Station,Dist.- Raigad, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs.25000/-,with one or more sureties in the like amount;

ii)Leave to add the complainant as party. Amendment to be carried out forthwith.

iii)Issue notice to the added respondent returnable in Six weeks.

iv)This interim protection granted till next date of hearing.

v)Stand over to 27th April, 2020. To be listed on Supplementary Board.”

4. The learned APP on instructions submits that the prosecution has filed the charge-sheet against the present applicant.

5. The execution of cancellation deed is not in dispute. Considering the overall facts and circumstances, I am inclined to allow the present application. Interim order passed by this Court dated 16 March 2020 is hereby confirmed. Application is disposed of.

(N.R. BORKAR, J.)