

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.765 OF 2023

Tushar Dattatrya Zende & Anr	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sachin S. Thombare, for the Applicant.

Mr. Amit A. Palkar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 7, 2023

P.C.:

1. The present Application has been filed by the Applicants in connection with C.R. No.615 of 2022 registered with Dehu police station, Pune for offences punishable under Sections 420, 465, 467, 468, 471 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Case of the prosecution in short as under:

According to the prosecution case, accused Nos.1 to 4 along with remaining accused made forged document of heirship certificate along with accused Nos.7 & 8, they entered their names in revenue record.

3. Present Applicants are the purchaser of the immovable property from accused Nos.1 to 4. According to the prosecution, the Applicants have purchased the property at lesser price than market value resulting into causing loss to the revenue of State.

4. Apprehending arrest the Applicant approached to learned

Sessions Judge by way of Application under Section 438 of the Code of Criminal Procedure (for short 'Cr.P.C.'). The said Application has been rejected by the Sessions Judge *vide* order dated 24th November, 2022. Aggrieved thereby, the Applicant is filed the present application.

5. The learned Advocate for the Applicants submits that the necessary stamp duty as payable under the provisions of Bombay Stamp Act has been paid and the sale consideration has been paid by cheque. They being purchaser cannot be made liable for the offence alleged against him.

6. Per contra, learned APP states that payment of lesser market value creates some doubt about the execution of sale deed. According to him such transaction has resulted into revenue loss to the State, therefore, custodial interrogation is necessary.

7. I have perused the record and on hearing of learned APP. At this stage, it appears that Applicants are purchasers of the immovable property. If, there is illegality committed, *prima facie* it is the Applicants who will be at loss. The allegations are in relation preparation of forged document and entry in revenue record, based on such forged document are not *prima facie* sufficient to attract offences alleged against the Applicant. Considering the said allegations, in my opinion, custodial interrogation is not necessary. Hence, following order:

a) In the event of arrest of Applicants in connection with C.R. No.615 of 2022 registered with Dehu police station, Pune for offences punishable under Sections 420, 465, 467, 468, 471 r/w.

34 of IPC, the Applicants shall be released on bail on furnishing P.R. bond of Rs.50,000/- (Rs. Fifty Thousand only) along with one or two sureties in the like amount.

b) The applicants shall cooperate with the investigation and make themselves available for interrogation whenever required.

c) The applicants 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.

8. The Anticipatory Bail Application stands disposed of.

(AMIT BORKAR, J.)