

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1054 OF 2023

Pradeep Lalan Singh and Another ...Applicants

vs.

The State of Maharashtra ...Respondent

Mr. Uday Warunjikar i/b. Ms. Sonali Chavan, for the Applicants.

Mr. Akash Kavde, for the Intervener in ABA No. 626 of 2023.

Smt. Ashwini Takalkar, APP, for the Respondent/State.

Mr. Kishor More, API, Tulinj police station.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 19, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicants apprehend arrest in C.R. No. 239 of 2023 registered with Tulinj police station for the offences punishable under sections 406, 420, 465, 467, 468, 471 and 506 read with 34 of the Indian Penal Code, 1860.

3. The applicants have been arraigned for having committed forgery of the documents to lay claim over the property in respect of which Prakash Naik, the first informant in C.R. No. 622 of 2022 had lodged a report at Tulinj police station initially for the offences punishable under sections 420, 447, 448, 506 read with 34 of the Indian Penal Code, 1860.

4. In the said first information report, the first informant herein was implicated as accused No. 1. Subsequently, applicant No. 2 herein was also implicated as accused No. 3. Post initial investigation, in the said C.R. the offences punishable under sections 465, 467, 468 and 471 read with 34 were also added. The applicant No. 1 Pradip Singh and the first informant Gajanan Singh were both arrested in the said crime and have since been released on bail.

5. After the first informant was released on bail, the instant first information report has been lodged alleging that during the period October, 2022 to August, 2023 with a fraudulent intent of usurping the property of the first informant, in C.R. No. 622 of 2022, Prakash Naik, the accused forged the documents by making the instant first informant believe that he was rendering assistance to the accused. The first informant was coerced to execute the documents without disclosing the true nature and import of those documents.

6. When the application was listed before the Court on 27th April, 2023, this Court was persuaded to grant interim bail as a submission was made that the indictment in the instant first information report is the very same as in C.R. No. 622 of 2022 wherein the applicant No. 1 and the first informant were arrested.

7. The learned counsel for the applicant submitted that there is

a complete identity of the allegations in the first information report in C.R. No. 622 of 2022 and the instant first information report. The substratum of the allegations is that the first informant herein and the accused No. 1 had forged the documents to show that the subject land was initially purchased by the first informant from Mansukhlal Natubhai Dagli, the original holder thereof, and thereafter, fabricated the Leave and License Agreement which was shown to have been executed by the first informant in favour of the applicant No. 1.

8. The learned counsel for the applicant submitted that the second first information report would be barred by the law laid down in the judgment in the case of **T.T. Anthony vs. State of Kerala and Others**¹.

9. As against this, the learned counsel for the first informant submitted that the allegations in the instant first information report are not restricted to the aforesaid documents and the first informant had realized that certain forged documents were shown to have been sent from the address of the first informant, at Silvassa and even a suit was instituted on behalf of the first informant, which the first informant has subsequently withdrawn.

10. The learned counsel submitted that the second first information report is not barred if there a different set of

1 AIR 2001 SC 2627.

allegations and the allegations are from a different perspective. In such a situation, the principle contained in the case of **T.T. Anthony** does not apply. Reliance was sought to be placed on the judgment of the Supreme Court in the case of **Surender Kaushik and Others vs. State of Uttar Pradesh and Others**²

11. The allegations in the first information report in C.R. NO. 239 of 2023 may have different shades than those in C.R. No. 622 of 2022. However, the substratum of the allegations remains the same, namely, accused Nos. 1 and 2 had forged the documents to show that the first informant had purchased the subject land from Mansukhlal Dagli and, subsequently, the first informant was coerced to execute a fabricated Leave and License Agreement in favour of the accused No. 1. As noted above, the applicant/ accused No. 1 came to be arrested in C.R. No. 622 of 2022 and have since been released on bail and the applicant No. 2 has been ordered to be released on bail, in the event of her arrest in connection with the said crime.

12. In the aforesaid view of the matter, I am persuaded to exercise the discretion in favour of the applicants.

13. In the event of arrest in C.R. No. 622 of 2022 registered with Tulinj police station, the applicants be released on bail on

² (2013) 5 Supreme Court Cases 148.

furnishing a P.R. bond in the sum of Rs.30,000/- with one or two sureties in the like amount, each.

14. The applicants shall cooperate with the investigation and attend Tulinj police station, on 27th, 30th and 31st October, 2023 in between 10 am to 1 pm and thereafter as and when directed.

15. The applicants shall not tamper with the prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

16. The applicants shall regularly attend the proceedings before the jurisdictional Court.

17. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)