

AGK

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

ANTICIPATORY BAIL APPLICATION NO.1686 OF 2023

Dr. Dhananjay Baburao Rathod	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Kuldeep U. Nikam for the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

CORAM : AMIT BORKAR, J.

DATED : JUNE 22, 2023

PC.:

1. Apprehending arrest in connection with C.R. No.163 of 2023 registered with Kondhwa Police Station for the offences punishable under Sections 406, 416, 417, 419, 420, 463, 464, 467, 468, 471, 120-B read with Section 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, Survey No.29, Plot No.26 admeasuring 7750 sq. mtrs, NIBMUndri Road, Pune has been owned by one Yusuf Poonawala and constructed bungalow on it. In 2020, the owner intended to sell the plot along with bungalow and, therefore, contacted unknown person. He received a note stating that he has been cheated. On inquiry, he came to know that by impersonating identity of the owner, registered sale deed of the

said property was executed in favour of the present applicant. The informant, therefore, lodged a report with the concerned police station.

3. The applicant applied before the learned Sessions Judge under Section 438 of the Criminal Procedure Code, 1973 which was rejected by order dated 30 May 2023. Aggrieved thereby, the applicant has filed present anticipatory bail application.

4. According to the learned advocate for the applicant, he is bona fide purchaser of the property. He had taken due care by publishing a public notice calling upon for objection for purchase of the property. He has paid stamp duty of Rs.19 lakh. He has not received possession of the property. He has sent email to the bank communicating the bank to stop disbursement of loan. According to him, therefore, this fact indicate that he has nothing to do with the impersonation of the registered sale deed.

5. Per contra, learned APP submitted that amount of Rs.70 lakh has been transferred to the friend of the applicant who has in turn transferred the said amount in the account of the applicant and, therefore, complicity of the applicant in the offence at this stage is made out.

6. On perusal of the material record, following factual scenario prima facie emerges: (i) the applicant published a public notice before entering into transaction on 30 March 2021 and the date of registration of sale deed is 6 April 2021; (ii) the applicant has paid stamp duty of Rs.19 lakh; and (iii) possession of the property in dispute is still with the owner. On completion of transaction in

question, the applicant has not received possession.

7. Cumulative effect of all the above circumstances entitles the applicant for relief under Section 438 of the Criminal Procedure Code, 1973. Charge-sheet against remaining accused has already been filed. The offence essentially is of documentary in nature. The applicant is ready to submit original copy of the registered sale deed to the investigating officer. Hence, following order:

- a) In the event of arrest of the applicant in connection with C.R. No.163 of 2023 registered with Kondhwa Police Station for the offences punishable under Sections 406, 416, 417, 419, 420, 463, 464, 467, 468, 471, 120-B read with Section 34 of the Indian Penal Code, 1860, he be released on bail on furnishing PR. Bond in the amount of Rs.50000/- with one or two sureties in the like amount;
- b) The applicant shall remain present before the investigating officer on 26, 28 and 30 June 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;

8. The anticipatory bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)