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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.75 OF 2024

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| 1. | Samsheer Sureshrao Warpudkar | APPLICANTS |
| 2. | Sachin Prakashrao Deshmukh | |
| 3 | Ravindra Dnyanoba Maid | |

VERSUS

The State of Maharashtra and Another	RESPONDENTS
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Mr. Mahesh S. Deshmukh, Advocate for the applicants
Mr. A. R. Kale, APP for respondent - State
Mr. Girish V. Wani, Advocate for informant
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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 3rd MAY, 2024

ORDER :

1. Applicant apprehends arrest in connection with Crime No. 560 of 2023 registered with Vazirabad Police Station, District - Nanded for offence punishable under sections 406, 420, 465, 467, 468, 471, 120-B read with 34 of the Indian Penal Code.
2. FIR is lodged by Pandurang Balasaheb Kailewad contending that, informant and Swati Prakash Jadhav are business partners in J. M.Cast company at Aurangabad and Prakash Srirang jadhav, husband of Swati Jadhav was looking after the affairs of company with informant. On 24th March, 2017 informant purchased plot No. 28 from Prakash Jadhav for consideration of Rs.75,10,000/-. It

was mutually agreed between them that sale consideration would be used for the company, but Prakash Jadhav resiled from the agreement and fabricated documents in the name of informant. Therefore, report at Crime No. 9 of 2019 as lodged, due to which relations between him and Prakash Jadhav were strained.

Since informant was unable to repay bank loans, he sold said plot to Manish and Manisha Jaiswal, by registered sale deed dated 25th June, 2018. Later on, informant came to know that applicant No.1 Samsheer has instituted Special Civil Suit No. 31 of 2018 against informant and purchasers Manish and Manisha Jaiswal. In the said suit, applicant Samsheer has annexed fabricated documents i.e. agreement for sale dated 22nd December, 2017 in respect of plot No. 28, by forging informant's signature, for consideration of Rs.95 lakh. Said agreement was notarized at Nanded by obtaining bogus stamp paper with signature of informant. Applicants No.2 and 3 have signed the said agreement as attesting witnesses. Informant has never executed said agreement of sell. Therefore, all the accused have committed offence of criminal breach of trust, cheating and dishonestly inducing delivery of property, forgery for the purpose of cheating and using fabricated document as genuine.

3. Heard learned advocate for applicant, learned APP for the State and learned Advocate for informant. Perused investigation papers.

4. It is a matter of record that on the basis of alleged fabricated documents i.e. agreement to sell dated 22nd December, 2017 and receipt dated 27th March, 2018, applicant No.1 had issued legal notice to informant on 6th June, 2018. Then he filed Special Civil Suit No. 31 of 2018 for specific performance of agreement to sell dated 22nd December, 2017. In the said suit, informant has appeared and filed his Written Say, disputing the said agreement and the receipt. Informant has claimed that both these documents are fabricated and his signatures are forged on the said documents.

5. Both the notarized documents, which are allegedly fabricated i.e. agreement to sell dated 22nd December, 2017 and receipt dated 27th March, 2018, are directed to be sent to the Collector (Stamp) for calculation of necessary stamp duty and penalty. i.e. both these documents are impounded by the Trial Court, vide order dated 12th November, 2021.

6. In the aforesaid backdrop, the FIR lodged by informant needs to be considered. It is alleged in the FIR that the offence is committed during the period between 22nd December, 2017 and

27th March, 2018 and the FIR is registered, as per the directions issued by the learned Magistrate under section 156 (3) of the Criminal Procedure Code, on 9th December, 2023.

7. Since the documents, which are allegedly fabricated, according to the informant, are already in the custody of the Court, custodial interrogation of applicants is not necessary, in the peculiar facts of the present case. Applicants can be directed to attend the concerned police station and co-operate in the investigation.

8. Learned advocate for informant has vehemently opposed the application contending that it is apparent that both these documents are fabricated, as both, the property and parties are from Parbhani and both the documents are allegedly shown to have been executed at Nanded. Therefore, both the documents are fabricated.

9. Be that as it may. Since the documents are filed in the Court, the Court will decide authenticity or otherwise of the same, after recording of evidence of both the parties.

10. In the result, application is allowed by confirming interim protection.

11. Applicants shall attend the concerned police station from

6th to 11th May, 2024 between 10.00 a.m. and 12.00 noon and shall co-operate in the investigation. Thereafter, till filing of the charge sheet, applicants shall attend the concerned police station as and when called by the Investigating Officer. Applicants shall not tamper prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

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