



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1571 OF 2023

1. Shivdas S/o. Ramrao Mudgade
2. Mahananda D/o Aburao Honrao Applicants

Versus

The State of Maharashtra
and another Respondents

.....
Mr. G.L. Awale, Advocate for the Applicant
Mr. N.B. Patil, APP for Respondents – State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 05th JANUARY, 2024

ORDER :

1. Leave to add Superintendent of Police, District Latur as a party respondent. Amendment to be carried out forthwith.
2. Applicants are arrayed as accused in Crime No.500 of 2023, registered with Vivekanand Chowk Police Station, Latur, for offence punishable under section 420 read with section 34 of the Indian Penal Code.
3. Informant advocate Gore lodged FIR in question alleging that plot bearing No.99 situated in Survey No.25/D in *Mouje* Kanheri, Taluka and District Latur was having display board in the name of applicant No.2 Shivdas Ramrao Mudgade and his mobile with a offer of sale of the said plot. He

therefore approached applicant No.2, who informed him that applicants have entered into an agreement to purchase the said plot and shown him the agreement and copies of 7/12 extract of the said plot. Informant requested applicants that, said plot is adjacent to his house and therefore requested applicants to sale the said plot to him. Applicants conceded to the said request and agreed to sale the said plot to the informant. Accordingly, agreement to sale dated 18.11.2021 was executed between applicants and informant. Informant thereafter issued paper publication dated 17.12.2021.

4. Thereafter on 01.02.2022, informant purchased the said plot from Mrs. Mukta Mane by way of registered sale deed dated 01.02.2022. He paid consideration amount of Rs.43,46,572/- by cash and issued a cheque of Rs.7,10,000/- in her name. Pursuant to the said sale deed, mutation entries were taken in the name of informant, and informant was put in possession on the said plot. Thereafter on 18.02.2023, when the informant received a notice in respect of cancellation of mutation entry of the said plot, he came to know that the said plot is already mortgaged with Punjab National Bank, Latur Branch, for loan obtained by Mukta Mane. Then he approached Mukta Mane and requested her to clear the loan.

However, the loan was not cleared and Bank Officers took possession of the said plot from informant on 23.08.2023. The informant therefore lodged FIR in question alleging that applicants in connivance with Mukta Mane and her husband have cheated him. Anticipatory bail application filed by applicants is rejected by the Sessions Court.

4. Heard learned advocate for applicant and learned APP for respondents-State. Perused the investigation papers.

5. Perusal of record indicates that Mukta Mane has executed a registered sale deed of the said plot in favour of informant and entire consideration amount is paid by informant to Mukta Mane. There is every possibility that applicants were not aware of the encumbrance of Punjab National Bank, Latur Branch on the said plot. Mukta Mane and her husband might not have disclosed the said aspect to applicants.

6. The investigation pertains to documentary evidence which are already seized by Investigating Officer, and it appears to be almost at final stage. Applicants were protected and they have cooperated in the investigation. Custodial detention of applicants in the facts of the present case is not necessary.

7. In that view of the mater, the application is allowed in terms of interim order dated 20.09.2023.

8. The applicants shall attend the concerned police station as and when called by the Investigating Officer till filing of charge-sheet.

9. Applicants shall not tamper with the prosecution evidence.

[NITIN B. SURYAWANSHI]
JUDGE

S.P. Rane