



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

972 ANTICIPATORY BAIL APPLICATION NO. 1809 OF 2024

1. Dashrath Jalba Kadam
2. Sambhaji Dashrath Kadam

VERSUS

The State Of Maharashtra And Another

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Mr. A. M. Gaikwad, Advocate for Applicants

Mr. B. A. Shinde, APP for the respondent/State

CORAM : R. M. JOSHI, J.

DATE : 13th DECEMBER, 2024

PER COURT :-

1. Applicants apprehend arrest in connection with Crime No. 335/2024, registered with Loha Police Station, Dist. Nanded for the offence punishable under Sections 420, 406, 465, 467, 468 r/w 34 of the Indian Penal Code Police Station.

2. The informant Gangadhar Pawar alleges that on 03/04/2012 agreement to sale came to be executed by him and four other persons in respect of the subject property for purchase thereof. It is claimed that earnest money of Rs.25 lakhs was paid on the same day. There is allegation that thereafter the applicants/vendor has failed to execute sale deed in their favour. It reveals from the first information report that in during Diwali of 2023 the document of cancellation of the said agreement to sale came to the notice of the informant. He alleged that the said

document is bogus and he does not bare signature of the informant and others.

3. Learned counsel for the applicants submits that in fact the transaction was not for the sale but was a money lending transaction and that is reason for which no suit for specific performance is filed by the informant and others over a period of about 11 years. It is his submission that if there was knowledge of the informant about the document in question in October/ November 2023, the report of the same ought to have been lodged immediately but the same is lodged after about a year. This shows that there is no substance in the allegation in the report.

4. Learned APP opposed the application by relying upon the statements of witness to deny execution of the said disputed document. It is his submission that in view of the said statement this is not a case for grant of anticipatory bail.

5. The facts as they appearing from the record indicate that had been sale agreement came to be executed on 03/04/2012. Undisputedly, the purchasers have not filed any suit for specific performance of the contract till date. Apart from this, the report itself indicates that at least in October/ November 23 there was knowledge with the informant about

the document in question i.e the cancellation of agreement to sale. In spite of the same for a period of about a year, no report is lodged. There is no explanation about the delay caused in lodging of the report. In such circumstances, this Court finds *prima facie* substance in the contention of the learned counsel for the applicant that this is not the case of genuine agreement to sale but could be a case of money lending transaction. In any case it is open for the informant and others to get the said document cancelled from the Competent Court of law.

6. Having regard to the above facts, it is a fit case wherein the liberty of the applicants deserves to be protected. Hence, application stands allowed in terms of interim order dated 22/10/2024.

(R. M. JOSHI, J.)

ssp