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952-aba-2105-23 +

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

952 ANTICIPATORY BAIL APPLICATION NO. 2105 OF 2023

ASHOK KUMAR ARORA

VERSUS

THE STATE OF MAHARASHTRA

...

Advocate for Applicant : Mr. Vikram S. Kadam
APP for Respondents / State : Mr. S. V. Hange
Advocate for assist to PP : Ms. M. D. Deshmukh

...

WITH

ANTICIPATORY BAIL APPLICATION NO. 2041 OF 2023

KANTA DEVI DHANUKA AND ANOTHER

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mr. Ms. P. S. Talekar
h/f. Talekar and Associates
APP for Respondents : Mr. S. V. Hange
Advocate for assist to PP : Mr. S. K. Chavan
h/f. Ms.M. D. Deshmukh

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AND

960 ANTICIPATORY BAIL APPLICATION NO. 1426 OF 2024

SUSHIL KUMAR KISHANCHAND SEHAGAL

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mrs Rashmi S. Kulkarni,
Ms. Namita P. Thole
APP for Respondents / State : Mr. D. B. Bhange
Advocate for assist to PP : Mr. Ganesh V. Mohekar

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WITH

**CRIMINAL APPLICATION NO. 3795 OF 2024
IN ABA/1426/2024**

VITTHAL NATHA DONDHE

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Ganesh V. Mohekar

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CORAM : R.M. JOSHI, J.

DATE : 19.12.2024

Common order :

1. These applications are filed for anticipatory bail by the directors of the T.S. Apartment and Motels Private Limited, Delhi and two purchasers who are the Directors of Nanda Deep Associates Private Limited, Delhi and Vibhor Trackon Private Ltd., Kolkata. The first informant is the purchaser of the subject land in Gut No. 20/2 excluding 40 R. situated at Shirdi in December 2013 admeasuring 40 R. situated at Patghardi, Tq. Rahata, Dist. Ahmednagar. The report indicates that in the first week of December, 2013 the informant decided to purchase the land. Through a property agent he was introduced to Ritesh Suresh Malik who, claimed himself is said to be the representative of T.S. Apartment and Motels Private Limited. Said Ritesh had shown his documents indicating that the agricultural land stands in the name of Company. The said transaction was fixed for a total consideration of Rs. 1,31,00,000/- (Rupees One Crore Thirty One

Lac only). The informant states that at the time of execution of agreement to sell a sum of Rs. 1,00,000/- was paid to Ritesh in cash, whereas cheque was issued in favour of Suresh Kumar Malik. It is claimed that thereafter registered sale-deed came to be executed by Suresh Malik on behalf of the T.S. Apartment and Motels Pvt. Ltd. on the basis of the resolution passed by the other Directors . In June - 2022, informant received summons in RCS No.70/2022 and thereafter he found that in respect of the said property there were two transactions entered into with Nanda Deep Associates Pvt. Ltd. and Vibhor Trackon Private Ltd., Kolkata. Informant, therefore, alleged that the accused persons, who are the Directors of these Companies, in collusion with each other have cheated present informant.

2. Learned counsel for the applicants have drawn attention of this Court to the various transactions entered into between the parties. It is pointed out that except for the document executed in favour of Vibhor Trackon Private Ltd., the other documents are not executed by all the Directors. It is their contention that the document i.e. the resolution passed by the Board of Directors on 30.04.2014, is a bougs document and to support the said submission, the attention of the Court is drawn to the agreement to sell executed between Suresh Malik and informant.

The agreement to sell is of December, 2013, whereas the resolution is passed much thereof. It is their submission that in respect of this resolution, appropriate provisional complaint is lodged against Suresh. It is their submissions that in respect of these sale deeds, suits are pending before the competent said court and as such, it is not the case wherein the arrest bail be denied to the applicants.

3. Learned APP opposes the application by submitting that after obtaining interim relief, the applicants have not co-operated in investigation. It is his submission that sale-deed in respect of land gut no. 20/2 is executed by Suresh Malik. It is also claimed that the Minutes of the meeting as well as the resolution with signatures are not provided by them. In response to those submission learned counsel for the applicants have brought to the notice that the responses given to the notice issued by the Investigating Officer indicating that their thumb impression and the specimen signatures are already obtained on 27.04.2024.

4. Learned counsel for the informant submits that since all the accused have acted in collusion with each other and since inception of the initial transaction there was an intention to cheat informant. It is

his submission that the said transactions with Vibhor Trackon Pvt. Ltd. and Nanda Deep Associates Pvt. Ltd. are not valid transactions and that there is no evidence to show that any consideration was passed while executing the said document. It is his submission that all these documents are created in order to cheat informant. He also drew attention of the Court to the documents on record which according to him indicate that all Directors of three Companies are connected with each other and which can be seen on the fact that Nanda Deep Associates Pvt. Ltd. had lent an amount of Rs. 50,00,000/- to T & S. Apartment and Motels Pvt. Ltd. It is his submission that having regard to the evidence on record the involvement of all applicants can be seen in this crime.

5. At this stage, it is difficult for this Court to accept the contention of the learned counsel for the informant that the parties are decided in the year 2010 itself to cheat the informant herein and therefore those sale-deeds were executed. Apart from this, prima-facie perusal of the record indicates that the agreement to sell is executed by the son of Suresh Malik in his individual capacity. The text of the said agreement to sell does not reveal that the sale was to be effected for and on behalf of Company. This agreement to sell is executed in December, 2013

whereas the resolution sought to be relied upon is dated 30.04.2014. This Court, therefore, finds reason to accept the contention of the learned counsel for the applicants, at this stage, that this would be the case of co-accused having created the said documents to involve present applicants in the crime.

6. It is pertinent to note that the entire consideration has been paid individually to Suresh Malik. Even the resolution does not authorize him to receive the consideration individually. This is not the case against the consideration has gone on account of company in order to make other Directors also liable for the same.

7. Prima facie consideration of over all records does not show that this is a case of custodial interrogation. There is no dispute about the fact that thumb impressions and specimen signatures of applicants are obtained. It can not be said that they did not cooperate in the investigation. They are not likely to flee from justice.

8. In any case, the custodial interrogation of the applicants need not be necessary for want of any recovery. Hence, the order :-

ORDER

- i) Anticipatory Bail Application No. 1426 Of 2024 is allowed.
 - ii) Applicant – Shri Sushil Kumar s/o Kishanchand Sehgal, in connection with Crime no. 104 of 2023 dated 15.02.2023 registered with Rahata Police Station, Rahata, Taluka Rahata, District Ahmednagar for the offences punishable under Sections 420 read with Section 34 of the Indian Penal Code be released on bail, on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand only), with one solvent surety of the like amount.
 - iii) He should not tamper with the prosecution witnesses.
 - iv) He should attend the Police Station as and when called by the Investigating Officer on written notice.
 - (v) Anticipatory Bail Application No. 2105 of 2023 and Anticipatory Bail Application No. 2041 of 2023 are allowed by confirming interim order dated 18.12.2023.
5. Needless to say that observations made hereinabove are prima-facie for the limited purpose of deciding these applications.
6. Pending Criminal Application, if any, is disposed off accordingly.

(R.M. JOSHI, J.)