

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

ANTICIPATORY BAIL APPLICATION NO. 546 OF 2024

Kishor Machhindra Bardole

..Applicant

Versus

The State of Maharashtra

..Respondents

Mr. Onkar A. Mane for Applicant.

Ms. Rajeshree V. Newton, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 29 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.62 of 2024 registered at Faujdar Chawdi Police Station, Solapur Rural, on 02.02.2024, under sections 420, 419 and 506 of the Indian Penal Code.

2. Heard Mr. Onkar Mane, learned counsel for the applicant and Ms. Rajeshree Newton, learned APP for the State.

3. The F.I.R. is lodged by one Vaibhav Aherkar. He was working as Chief Officer of Aryanandi Nagari Credit Society. The F.I.R. is about loan taken by the present applicant. He had made an

application on 08.01.2011 requesting for loan. The Board of Directors had passed a resolution on 13.01.2011 sanctioning the loan. For that purpose the applicant had given security by mortgaging the land belonging to one Satyayya Yeldi at Gat No.526/A/2/1/1. On 10.03.2011 the loan of Rs.7,50,000/- was sanctioned and given to the applicant. Subsequently, it was found by the society that the said Yeldi had sold his land on 09.07.2007 to third parties even before offering it as a security for the applicant's loan. It is the case of the first informant that the applicant was aware of the sale transaction between Satyayya Yeldi and those third parties. It is mentioned in the F.I.R. that, Gat No.526/A/2/1/1 and Gat No.526/1/B/1/A are one and the same.

4. Learned counsel for the applicant submitted that the applicant was not aware of any transaction between Yeldi and the third parties. He submitted that the revenue record showed that the said land belonged to said Yeldi and, therefore, the applicant had given that land as a security. At the time of entering encumbrance in favour of the informant society, there was no mention of any other owner or purchaser of the land. Therefore, it

cannot be said that the applicant was aware of any such transaction. He invited my attention to a copy of the sale deed between said Satyayya Yeldi and the purchasers Ramesh Malji and Nagesh Malji. In that sale deed, the land was described as Gat No.526.A/2/1/1, admeasuring 40 R. However, the 7/12 extract attached to that sale deed mentioned Gat No.526/1/B/1/A. He submitted that, this discrepancy can be explained only by Satyayya Yeldi. He has passed away in the year 2012 itself. Therefore, the applicant is not in a position to explain this discrepancy. He further submitted that the applicant believed the revenue record entry and, therefore, he had no reason to suspect that the said land was already sold by Satyayya Yeldi to third persons. He invited my attention to the 7/12 extract of the property having Gat No.526/1/B/1/A. In that extract, the informant society's encumbrance is entered and, there is no mention of any other purchaser or owner.

5. Learned APP produced the investigation papers before me. The 7/12 extract dated 22.10.2012 in respect of Gat No.526/1/B/1/A mentions Satyayya Yeldi as the owner and

encumbrance of the informant society is shown in that 7/12 extract. Only in the year 2017 the names of Ramesh Malji and Nagesh Malji are mentioned.

6. Thus, from the investigation carried out so far, it is clear that in the year 2012 and prior to that, the 7/12 extract did not mention the names of the purchasers Ramesh Malji and Nagesh Malji. Therefore, there is force in the submission of learned counsel for the applicant that the applicant was right in believing that the land was owned by Satyayya Yeldi. Even the credit society did not find anything wrong while sanctioning the loan and their encumbrance was entered into 7/12 extract of the said land. Considering this situation, I find force in the submission of the learned counsel for the applicant that the applicant genuinely believed that the said land was free from encumbrance and was owned by Satyayya Yeldi and, therefore, he had offered it as a security for getting loan. The transaction is old. It is from the year 2011. In this view of the matter, the applicant can be protected U/s.438 of the Cr.p.c. It is made clear that, all these observations are made only for the purpose of passing of this order. This order

does not affect civil rights and remedies of any parties.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.62 of 2024 registered at Faujdar Chawdi Police Station, Solapur Rural, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)