

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1301 OF 2024

Mohsin Illahi Jamadar

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Ritesh Thobde, (Through V.C.) a/w Ms. Gubi Ansari, for Applicant.
- Mr. Tanveer Khan, APP for Respondent.

CORAM: MANISH PITALE, J.

DATE : 15th July, 2024.

P. C. :

1. Heard, Mr. Ritesh Thobde, learned counsel for the applicant and Mr. Tanveer Khan, learned APP for the State.

2. The applicant has approached this Court apprehending arrest in connection with First Information Report No.0578 of 2023, dated 29th August, 2023, registered at Police Station Sadar Bazar, District Solapur, for the offences under Sections 417, 420, 467, 468 and 471 read with 34 of the Indian Penal Code (IPC).

3. The informant approached the police and his statement dated 29th August, 2023, led to registration of the aforesaid FIR. The informant stated before the police that a registered document was executed in the context of a property owned by him and that one of the named accused persons impersonated him in the office of the Sub Registrar and without the informant

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receiving any consideration, the registered document was executed showing that the property belonging to the informant was sold to the purchaser. On the basis of the said statement, the purchaser and the two witnesses to the said registered document were named as accused persons along with unknown persons.

4. It was during the course of investigation that the name of the applicant and other persons came on record and they were arraigned as accused.

5. The applicant appears to have been arraigned as an accused after the statement of co-accused Prakash Gadi was recorded on 22nd January, 2024. In that light, on 05th February, 2024, the applicant applied for anticipatory bail before the Sessions Court. By an order dated 01st April, 2024, the application was rejected, on the ground that the applicant had remained absconding and therefore, he did not deserve protection from arrest.

6. The learned counsel for the applicant submitted that in the present case, other than the statement of co-accused Prakash Gadi (accused No.4), there is no material to link the applicant with the present case. It is submitted that the similarly situated accused No.6 Siddharam Chabukswar was granted anticipatory bail by the Sessions Court on the ground that there was no material to link the said accused person also, other than the statement

of the accused No.4 Prakash Gadi.

7. It was further submitted that the purchaser and the other witnesses were granted anticipatory bail by the Sessions Court, while Prakash Gadi i.e. the person who impersonated, was himself released on regular bail by order dated 06th May, 2024, passed by the Sessions Court. It was further submitted that the Investigating Authority, as on today, has no material to link the applicant with the present case. Reliance cannot be placed on the Call Detail Records (CDRs) in order to implicate the applicant. In this situation, this Court may consider allowing the present application.

8. On the other hand, learned APP submitted that on an overall appreciation of the material that has come to light through investigation, it can be said that the applicant was the mastermind, as he engaged the services of co-accused Nos.4 and 6 to ensure that such a registered document was executed by impersonation. Reliance was placed on the CDRs and it was emphasized that co-accused No.4 Prakash Gadi was released on regular bail and in the order granting such relief to the said accused person, the Sessions Court has taken note of the fact that he was arrested on 20th January, 2024 and being a 59 old person with the trial not having commenced, regular bail could be granted. In the present case the applicant has not joined the investigation and such a person ought not to be shown indulgence.

9. This Court has considered the material on record. The offence in the present case is serious, as accused No.4 has impersonated as the informant in order to execute a registered document with regard to immovable property belonging to the informant. The statements of the witnesses and also statements of co-accused Nos.4 and 6, indicate the role of the applicant. The witness Tukaram Dasi, in the statement was recorded during the course of investigation, has indicated the role of co-accused Siddharam Chabukswar in preparing forged Aadhar Card and PAN Card. The statement of co-accused Prakash Gadi indicates the manner in which the applicant allegedly secured his services to impersonate in place of the original owner i.e. the informant.

10. Undoubtedly, it is the statements of the co-accused Nos.4 and 6 that bring to the fore the role of the applicant. Additionally, the CDRs that have come on record during the course of investigation do show that the applicant was constantly in touch with co-accused Nos.4 and 6. At the stage of investigation, such material has come to light which indicates constant interaction between the applicant and co-accused Nos.4 and 6, particularly around the time when the registered sale deed was executed i.e. 17th August, 2023. Such material does indicate that the applicant was constantly in touch with the said co-accused persons. It can only be inferred at this stage that the applicant *prima facie* did have a role to play in the eventual act of co-accused

No.4 impersonating the informant, as a consequence of which such serious offences have been registered.

11. There was no reason for the applicant not to have joined the investigation and after his name was added as an accused in the present case, he has not shown any willingness of cooperating with the investigation. There can be no doubt that the accused persons is entitled to avail of the remedies available in law, including filing of anticipatory bail application before the Sessions Court, but, considering the material brought to the notice of this Court, it cannot be said that the applicant has made out a case for showing indulgence. Merely because the co-accused No. 6 has been granted anticipatory bail, cannot be a ground to allow the present application.

12. In view of the above, the application is dismissed.

(MANISH PITALE, J.)