

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1820 OF 2024

Rahul Eknath Basutkar ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.2728 OF 2024
(Not on Board. Taken on Board.)
IN
ANTICIPATORY BAIL APPLICATION NO.1820 OF 2024

Mr. Ashutosh Kulkarni a/w. Mr. Sainath S. Garade i/b. Mr. Aadesh Konde-
Deshmukh for Applicant.

Mr. R. M. Pethe, APP for Respondent-State.

Mr. Paras Yadav i/b. Mr. Prasad P. Kulkarni for Applicant in IA/2728/2024.

Mr. Ajay Shamrao Populbhat, PSI, Vijapur Naka Police Station.

CORAM : MANISH PITALE, J.
DATE : JULY 15, 2024

P.C. :

. Heard Mr. Kulkarni, learned counsel for the applicant, Mr. Pethe, learned APP for the respondent-State and Mr. Yadav, learned counsel appearing for the intervener (first informant), who has filed the intervention application.

2. The applicant apprehends arrest in connection with FIR No.0219 of 2024 dated 09.05.2024 registered at Vijapur Naka Police Station, District - Solapur City, for offences under Sections 417 and 420 of the Indian Penal Code, 1860 (IPC).

3. According to the informant, the applicant has cheated her inasmuch he has failed to execute registered sale deed pertaining to plot

No.53 in a particular layout in her favour despite having received huge amount of Rs.14,40,306/- over a period of time from her.

4. Learned counsel for the applicant submits that purely a civil dispute is sought to be given a colour of criminality. It is submitted that since registered sale deed in respect of plot No.53 could not be executed due to various reasons, a registered sale deed was executed in favour of the husband of the informant on 31.03.2015. He relies upon the copy of the said registered document. He submits that in the light of the material placed on record along with the application, this Court may consider allowing the application as the applicant is ready to co-operate with investigation.

5. On the other hand, the learned APP submits that the *Issar Pavati* dated 05.04.2014 placed on record along with statement of account filed with intervention application shows that in terms of the cheques mentioned in the *Issar Pavati*, the applicant indeed received amounts from the informant and there is nothing to show that he honoured his commitment of executing sale deed in favour of the informant, thereby indicating the ingredients of the alleged offence.

6. The learned counsel for the intervener submits that the informant is a senior citizen aged about 70 years and her husband is about 80 years. In the statement leading to registration of FIR itself, the informant has stated as to the manner in which the applicant has absconded.

7. This Court has considered the documents on record. The present application deserves to be granted for the following reasons:-

- a. The *Issar Pavati* on record shows that in respect of plot No.53, the said document was executed as far back as on 05.04.2014, wherein it was recorded that the registered sale deed will have to be executed by 05.10.2014 i.e. six months

from the date of the *Issar Pavati*.

- b. The statement of the informant itself shows that she approached the applicant in respect of the said plot No.53 in response to an advertisement dated 16.03.2014.
- c. It is claimed that amount of Rs.14,40,306/- was paid to the applicant and yet, registered sale deed was not executed. *Prima facie*, this appears to be a civil dispute where, if so advised, the informant could have very well filed a suit for specific performance before the competent court. No such proceeding was initiated.
- d. There is nothing in the statement leading to registration of the FIR as to the efforts made by the informant after the year 2014 to pursue the matter with the applicant. It is not even alleged that when the informant was pursuing the matter, if at all, repeated inducements and promises were made by the applicant so as to mislead the informant.
- e. The FIR itself shows that the offence allegedly occurred on 16.03.2014 and the FIR is registered after more than 10 years i.e. on 09.05.2024. In this backdrop, the statements made in the application on behalf of the applicant appear to give semblance of an explanation as regards the parallel transaction undertaken by the husband of the informant with the applicant before this Court.
- f. The overall appreciation of the material on record makes out a *prima facie* case in favour of the applicant.

8. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicant is arrested in connection with FIR No.0219 of 2024 dated 09.05.2024 registered at Vijapur Naka Police Station, District - Solapur City, he shall be released on bail on furnishing PR Bond of Rs.25,000/- [Rupees Twenty Five Thousand only] with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer, as and when called and he shall co-operate with the investigation;
- C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

10. The application is disposed of.

11. Intervention application bearing Interim Application No.2728 of 2024 stands disposed of accordingly.

(MANISH PITALE, J.)