

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

Anticipatory Bail Application No.1453 of 2022

1. Najir Sattar Korbu

Age : 47 years, Occupation: Farmer

Residing at Korbumala, Malewadi,

Akluj, Tal.Malshiras, Dist.Solapur

2. Vijay Shankar Phule

Age @ 65 years, Occ: Farmer

Residing at Paranda, Tal. Paranda,

Dist. Usmanabad

..... Applicants.

Vs.

The State of Maharashtra

through Police Inspector,

Akluj Police Station, Solapur

(Notice to be served upon APP

Bombay High Court)

..... Respondents.

With

Interim Application No.3743 of 2022

In

Anticipatory Bail Application No.1453 of 2022

Seema Vijay Ekatpure

... Intervener.

In the matter between:

1. Najir Sattar Korbu

2.Vijay Shankar Phule

.... Applicants.

Vs.

The State of Maharashtra

(through Akluj Police Station)

.... Respondent.

Mr Vikas Shivarkar a/w Vivek Joshi for the applicants.

Ms Supriya Kak, APP for Respondent/ State.

Mr Satish Raut for the intervenor.

Coram : R. N. Laddha, J.

Date : 14 August 2024.

P.C. :

Heard Mr Vikas Shivarkar, the learned Counsel appearing on behalf of the applicant; Ms Supriya Kak, the learned Additional Public Prosecutor representing the Respondent/State and Mr Satish Raut, the learned Counsel for the intervenor/first informant.

2. This is an application for pre-arrest bail filed by the applicants apprehending arrest in CR No.41 of 2022, registered with Akulj Police Station, Solapur, for the offences punishable under Sections 406 and 420 read with 34 of the Indian Penal Code.

3. According to the prosecution, the informant's husband and brothers-in-law sold an 8 acres plot (Survey No.57/2/A/B/C/D) to Mahesh Pote of Akulj for Rs.50,00,000/- in 2010, with an agreement to re-purchase it. Later, they paid Rs.65,00,000/- to Vaibhav and Yogesh Fade, who promised to resale the land but instead registered it in their own name. Despite agreements and promises, Vaibhav and Yogesh refused to re-execute the sale deed. The applicants then offered to help the family regain the land with Dhaval Singh Mohite Patil's assistance, receiving Rs.65,00,000/- and an additional Rs.10,00,000/-. However, they failed to deliver,

and compromise led to Vaibhav and Yogesh executing a sale deed for only 2 acres in 2020. The applicants neither helped with the full land nor returned the amount, leading to the filing of the FIR. It is stated that there is a video recording of the financial transaction.

4. Mr Vikas Shivarkar, the learned Counsel for the applicant, referring to the FIR, submits that the prosecution's claim that the informant's husband and brothers-in-law sold land to Mahesh Pote is incorrect. According to the learned Counsel, the applicants have no involvement in the alleged transactions between the informant's husband, brothers-in-law and others. The applicants, from a respectable family, are willing to cooperate with the investigation. There is nothing to be recovered or discovered from the applicants, and the sale deed mentioned in the FIR is not in existence. Moreover, there is substantial delay in lodging the FIR.

5. Conversely, Ms Supriya Kak, the learned APP, and Mr Satish Raut, the learned Counsel for the intervenor/first informant jointly submit that the applicants visited the informant's house, suggesting that they seek Dhavalsingh Mohite Patil's help to resolve the land dispute. Dhavalsingh Mohite Patil proposed that the applicants would mediate with Vaibhav and Yogesh to settle the issue and instructed the informant's husband and brothers-in-law to pay

Rs.65,00,000/- to the applicants, who would then hand over it to Vaibhav and Yogesh. On 15 December 2011, the husband and brothers-in-law paid the amount to the applicants. Four days later the applicants asked an additional amount of Rs.10,00,000/-, which was paid to Dhavalsingh in presence of witnesses. As part of the settlement, Vaibhav and Yogesh transferred 2 acres of land to the informant's husband and brothers-inlaw. However, the remaining amount was neither transferred nor the applicants returned the paid amount.

6. At the outset, as pointed out by the learned Counsel for the applicants and the learned APP, applicant No.1 has been arrested, rendering the present application infructuous as far as he is concerned. The alleged dispute starts from 2010. There is a significant delay in filing the FIR. Notably, no sale deed as described in the FIR is on record. Upon reviewing the documents, it appears that Vaibhav Fade had filed an injunction suit against Sanjay Ekatpure, the informant's husband, and others, which later compromised, resulting in the sale of two 2 acres of land to Sanjay Ekatpure and others. Similarly, Yogesh Fade's suit against the same individuals was also compromised. The dispute appears to be of a civil nature. Furthermore, no documentary evidence is available on record to support the claim that the applicants received Rs.75,00,000/- from the informant.

7. Considering the details above, this Court is inclined to allow the present application. Hence, the following order.

Order

- (i) In the event of arrest of applicant Vijay Shankar Phule in CR No.41 of 2022, registered with Akhuj Police Station, Solapur, he shall be released on bail upon furnishing a PR Bond of Rs.25,000/- with one or more solvent sureties in the like amount.
- (ii) The applicant shall not himself or through any other person, indulge in any activity that would tamper with the evidence or influence the witnesses.
- (iii) The applicant Vijay Shankar Phule shall cooperate with the investigation and report to the investigating officer as and when directed and shall furnish his contact details to the investigating officer.

8. It is clarified that these observations are prima facie, confined to determining the entitlement of pre-arrest bail. The trial court shall proceed with the trial uninfluenced by the observations made herein and shall decide the case on its own merits in accordance with the law.

9. The pending application also stands disposed of.

[R. N. Laddha,J.]