

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3013 OF 2023

Gopal Ramesh Tarlekar

...Applicant

vs.

The State of Maharashtra and Another

...Respondents

VISHAL
SUBHASH
PAREKAR

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VISHAL SUBHASH
PAREKAR
Date: 2024.08.07
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Mr. Gaurav Sharma a/w. Mr. Siddharth Shitole, for the Applicant.

Mr. A.A. Naik, APP for the State.

Mr. Milind Deshmukh, for the first informant.

CORAM : N. J. JAMADAR, J.

DATE : AUGUST 05, 2024

P.C.:

1. This is an application for pre-arrest bail in connection with CR No. 438 of 2023 registered with Vita police station, Sangli for the offences punishable under sections 420, 467, 468, 471 and 474 of Indian Penal Code, 1860 (the Penal Code).

2. When the application was listed before the Court on 30th October, 2023, this Court was persuaded to grant interim bail to the applicant, briefly noting the indictment against the applicant and the reasons for grant of ad-interim relief, as under:-

3] The first informant is the father of the applicant. The first informant lodged a report with the allegations that the applicant had fraudulently executed a gift deed by representing that, in fact, a Power of Attorney was to be executed and the applicant fraudulently mutated his name to the assessment list of the property bearing No.6437 by forging an Affidavit dated 26 September 2019 affirmed before the Taluka Executive Magistrate, Vita

and by inserting the property No.6437 and forging the seal of the Taluka Executive Magistrate, Vita.

4] The learned Counsel for the Applicant submitted that the FIR has been lodged on account of the dispute between the applicant and his brother. The first informant had assailed the legality of the gift deed by initiating proceedings before the revenue authorities which came to be decided against the first informant.

5] The learned APP submitted that the copy of the affidavit obtained under the Right to Information Act, and the allegedly forged affidavit indicate a clear case of forgery.

6] Mr. Deshmukh submits that he has instructions to appear on behalf of the first informant. The learned Counsel invited the attention of the Court to the observations made by the Additional Sessions Judge while rejecting the prayer for pre- arrest bail.

7] It appears that the first informant has executed gift deed and the legality and validity of the said gift deed is later on sought to be questioned. The question as to whether the allegedly forged document is fabricated as alleged, is rooted in facts and revolves around the documents. In the backdrop of the relationship between the parties and the nature of the accusation, it may be expedient to implead the first informant as party Respondent No.2 to this application and, in the meanwhile, grant protection to the applicant.

3. Mr. Gaurav Sharma, learned counsel for the applicant, submitted that the applicant has appeared before the investigating officer and cooperated with the investigation. All the original documents have been recovered. Specimen handwriting and signature of the applicant have been collected. Post completion of investigation, charge-sheet has also been lodged. A copy of the charge-sheet is tendered for the perusal of the Court.

4. In view of the aforesaid development Mr. Sharma submitted that the order of interim bail deserves to be made absolute.

5. Without controverting to the fact that, post completion of investigation, charge-sheet has been lodged, Mr. Naik, the learned APP resisted the prayer for pre-arrest bail. It was submitted that the investigation has revealed the complicity of the applicant.

6. Mr. Deshmukh, the learned counsel for the first informant/respondent No. 2, strongly opposed the prayer for pre-arrest bail. It was submitted that though charge-sheet has been lodged yet, in the peculiar facts of the case, the applicant does not deserve pre-arrest bail. An endeavour was made to draw home the point that the applicant has deceived his father, the first informant, and even the affidavit has been forged with a view to usurp the property of the first informant. It was urged that no case for pre-arrest bail is made out. The learned counsel made an endeavour to question the applicant's claim of gift of the subject property, by pointing out the inconsistency in the claim as borne out by the documents.

7. I have carefully perused the material on record and the report under section 173 of the Code, which was tendered for the perusal of the Court.

8. Evidently, the Gift Deed dated 7th September, 2014 is a registered instrument. Whether it was got executed fraudulently by representing that, in fact, a Power of Attorney was to be executed, is a matter rooted in facts and would warrant evidence. At this juncture, whether the structures which stood on the property were also the subject matter of the gift, cannot be determined with reference to the description of the property only. What was the intention of the donor would be required to be gathered from the construction of the Gift Deed as a whole and the attendant circumstances.

9. In any event, as noted above, the genesis of the offences appears to be in the disputes between the applicant and his father, or for that matter, the applicant's brother. The offences revolve around documents. The investigating officer seems to have collected documents during the course of investigation. Post completion of investigation, charge-sheet has also been lodged. Thus, at this length of time, the custodial interrogation of the applicant does not seem to be warranted.

10. I am, therefore, impelled to make the order of interim bail absolute.

Hence, the following order.

ORDER

- 1] The order of interim bail dated 30th October, 2023 is made absolute on the terms and conditions incorporated therein.
- 2] The applicant shall regularly attend the proceedings before the jurisdictional Court.

Application disposed.

(N. J. JAMADAR, J.)