

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 3230 OF 2024**

Balkrushna Atmaram Gavkar	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Shekhar Ingawale for applicant.

Mr. Tanveer G. Khan, APP for respondent-State.

CORAM : MANISH PITALE, J.

DATE : 04th DECEMBER, 2024

P.C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0077 of 2024 dated 20.09.2024, registered at Devgad Police Station, District Sindhudurg, for offence under Sections 193, 196, 419, 420, 465, 467, 468, 470, 471 and 475 read with Section 34 of the Indian Penal Code, 1860.

3. The informant has raised a grievance that the co-accused Mangesh Atmaram Gavkar, in connivance with other co-accused persons, committed a fraud, the initiation of which was way back in the year 2010, when a sale deed was shown to be executed by Satyavijay Atmaram Rane in favour of the said co-accused person Mangesh Atmaram Gavkar, while the said purported vendor had already died on 07.05.2006.

4. The learned counsel for the applicant submits that even if the grievance sought to be raised by the informant, is to be taken into account, there is no material to link the applicant with the alleged offence. The only role of the applicant appears to be that he allegedly signed an adjournment application in a tenancy proceeding concerning the said land, pending before the *Tahsildar* at the relevant time. It is submitted that *rojnama* of that particular date shows the presence of co-accused Mangesh Atmaram Gavkar, on whose behalf the applicant had allegedly signed the said adjournment application. It is submitted that in such a situation, when the applicant is ready to co-operate with the investigation, this Court may consider allowing the present application.

5. On the other hand, the learned APP opposed the application and submitted that the applicant is named as an accused in the FIR itself and detailed statement of the informant, does indicate the active role attributed to the applicant herein.

6. This Court has perused the FIR and the documents filed alongwith the application. It is not even alleged against the applicant that he was party to the alleged fraudulent sale deed dated 29.07.2010. The documents show that the co-accused Mangesh Atmaram Gavkar was the purchaser and the amount towards compensation received from Government for acquisition of the subject land, was also paid to the said co-accused person. Thus, the observation of the Sessions Court that the applicant, alongwith the said co-accused person, enjoyed the fruits of such fraudulently executed sale deed, does not appear to be appropriate.

7. In any case, the allegation against the applicant appears to be that he signed the adjournment application in April 2018 on behalf of the said co-accused person in the tenancy proceeding pending with the *Tahsildar*. Copy of the *rojnama* placed before this Court, shows that the name of the said co-accused person appears in the *rojnama*, as being present on the said date. This, *prima facie*, creates some doubt about the said allegation raised on behalf of the informant. In any case, the tenancy proceeding before the *Tahsildar* have been disposed of and an appeal filed therein is pending before the Appellate Authority.

8. In such circumstances, when the applicant is ready to co-operate with the investigation and the nature of investigation would necessarily involve documentary material, this Court is convinced that the application can be allowed.

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

- (i) In the event the applicant is arrested in connection with FIR No.0077 of 2024 dated 20.09.2024, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant shall remain present before the Investigating Officer on 06.12.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when called by the Investigating Officer.
- (iii) The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

(iv) The applicant shall co-operate with the investigation and also in the proceedings before the trial court.

10. In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

11. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

12. The application stands disposed of.

(MANISH PITALE, J)

Priya Kambli