

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

ANTICIPATORY BAIL APPLICATION NO.198 OF 2024

Sunil Bhikaji Kanade Applicant
Versus
The State of Maharashtra Respondent

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WITH
INTERIM APPLICATION NO.312 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.198 OF 2024

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WITH
ANTICIPATORY BAIL APPLICATION NO.199 OF 2024

Rekha Sunil Kanade Applicant
Versus
The State of Maharashtra Respondent

Mr. Niranjan Mundargi, Advocate a/w Keral Mehta i/b.
Namdeo Gore for the Applicants in both ABAs.

Ms. Pallavi N. Dabholkar, APP for the Respondent-State.

Mr. Umesh Mohite, Advocate a/w Hetal Pandya for the
Intervenor in IA/312/2024.

CORAM : SARANG V. KOTWAL, J.

DATE : 24th JANUARY, 2024

P.C. :

1. Both these applications are decided by this
common order because they arise out of the same registered
offence.

2. The Applicants are seeking anticipatory bail in connection with C.R.No.875/2023 registered at Vile Parle Police Station, Mumbai on 13.12.2023 under sections 420, 468, 471, 472 read with 34 of IPC.

3. Heard Mr. Niranjana Mundargi, learned counsel for the Applicants, Ms. Pallavi Dabholkar, learned APP for the Respondent -State and Mr. Umesh Mohite, learned counsel for the intervenor.

4. The FIR is lodged by one Anand Dinanath Kanade. He is the nephew of the Applicant Sunil Kanade, i.e., he is son of Sunil's brother Dinanath. He has stated that in the year 2007, the Applicant Sunil and his brother Dinanath were the Directors of Koyana Power Limited. The informant became Partner in another company i.e. Kanade Anand Udyog Private Limited since 2021. It is mentioned in the FIR that Koyana Power Limited decided to start gas based power plant unit. For that purpose they decided to purchase a land at Ambernath Chikhholi. The Applicant Sunil was entrusted with the responsibility of purchasing that land. For that purpose

Kanade Anand Udyog Private Limited supplied finances to Koyana Power Limited in the year 2009. They decided to purchase a land at Survey Nos.51 and 54 at village Chikhloli. According to the first informant, the Applicant purchased that land from one Saraswati Sorkhade for Rs.9,78,000/- on behalf of Koyana Power Company. The amount was paid to said Sorkhade through the Company's bank account. It is mentioned in the FIR that at the time of registration of the transactions the Applicant Sunil got the sale deed registered in his own name. He told the informant that since it was an agricultural land it could not be transferred in the name of the company. The land would be transferred in the company's name after it was converted into non-agricultural land.

5. In the year 2010-2011, the Defence Ministry of Government of India acquired the lands in Survey No.54/2 to 54/16. The notice was issued to the land owners on 30.6.2013. In the year 2017, the present Applicant as the land owner was granted compensation of Rs.8.52 Crores. According to the first informant, the Applicant Sunil did not return that amount to Koyana Power Limited, but deposited it

in the joint account of the Applicant Sunil and other Applicant Rekha, who is Sunil's wife. The FIR mentions that the Land Acquisition & Rehabilitation Tribunal, Nagpur enhanced the compensation amount to Rs.19,14,07,180/- with 9% interest per annum and 15% for damages. But as of today that additional amount is not yet disbursed. The Tribunal decided the proceedings on 4.3.2021 and gave compensation at the enhanced rate. According to the first informant, the Applicant had relied on the false evidence in the affidavit of one Sandip Warule. On these allegations, the FIR is lodged.

6. Learned counsel for the Applicants submitted that as far as the Applicant Rekha is concerned, there are no allegations against her but she is roped in only because the amount was deposited in the joint account held by her with her husband the Applicant Sunil.

7. Learned counsel submitted that as far as the Applicant Sunil is concerned, he has not committed any offence. The notification for acquisition of the particular land was issued on 20.6.2013 and the Applicant Sunil participated

in the acquisition proceedings. The first informant was very much aware of those proceedings because according to the informant himself that land was actually belonging to Koyana Power Limited. He submitted that the informant has not taken any steps in participating in the acquisition proceedings. He submitted that the informant had filed a civil suit before the City Civil Court at Mumbai on behalf of Kayana Power Limited against the present Applicant Sunil. Even in that suit, the prayers are not about his share in the acquired property. The prayers are for permanent injunction in respect of rest of the land.

8. Learned counsel submitted that the informant has filed Writ Petition No.8473/2022 before this Court on the Civil Appellate Side Jurisdiction on behalf of M/s. Koyana Power Limited. In that case the informant himself through his counsel had contended that the dispute was not in respect of the award or acquisition but it was in respect of distribution of compensation. Therefore, the issue regarding filing false evidence before the Tribunal was not agitated by the first informant at all. He submitted that after failing to get any

relief in any civil proceedings and without filing proper civil suit, the informant has resorted to filing of the present FIR to pressurize the Applicants.

9. Learned counsel for the first informant submitted that the money in purchasing the land in question had not been supplied by Koyana Power Limited and the money was actually supplied by Kanade Anand Udyog Private Limited to Koyana Power Limited. The Applicant has misappropriated that amount to his own benefit causing loss to the company and consequently causing loss to the first informant and his father. He submitted that the FIR mentions rightly that the Applicant had used false evidence to get enhanced compensation. Therefore, his custodial interrogation is necessary.

10. Learned APP submitted that whether the aforementioned Sandip Warule was an employee of the Applicant or an employee of the valuer is subject matter of the investigation which is going on. She submitted that for rest of

the allegations in the FIR, there is a dispute between the first informant and the Applicant.

11. I have considered these submissions. As far as the statement of Sandip Warule in giving evidence is concerned, the first informant cannot be said to be aggrieved by the same because he is not put to loss because of that evidence. The main contention in the FIR is that though the land was purchased with the money of the company, the compensation was misappropriated by the Applicant himself for his own benefit.

12. From that point of view, it must be noted that the land acquisition process has started in the year 2013 when the notification was issued on 20.6.2013. The notices were issued to all the concerned land owners. Therefore, it is quite obvious that since 2013, the informant was very much aware of these proceedings. Yet significantly he had not participated in the acquisition proceedings at all, neither at the stage of initial passing of the award nor at the stage of enhancement proceedings before the Tribunal.

13. Even in the Writ Petition before this Court on the Civil Appellate Jurisdiction, the informant's contention was clear that the dispute was not in respect of the award or acquisition but only in respect of disbursement of compensation. To that end, the informant has not taken any steps whatsoever. He has neither filed any civil suit nor had he approached the Land Acquisition Officer in that behalf.

14. Therefore, this dispute regarding his share or the company's share cannot be a basis of a criminal offence. The Applicant Sunil has participated in the acquisition process and his evidence is on record. For that purpose his custodial interrogation to procure further evidence, either documentary or oral, is not necessary.

15. The process is pending since 2013. The FIR was lodged on 13.12.2023. Therefore, after all these years, the custodial interrogation of the Applicants is not necessary. It is sufficient if they cooperate with the investigation by attending the police station.

16. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.875/2023 registered at Vile Parle Police Station, Mumbai, the Applicants are directed to be released on bail on their furnishing PR bonds in the sum of Rs.30,000/- each (Rupees Thirty Thousand Only) with one or two sureties each in the like amount.
- (ii) The Applicants shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Applications stand disposed of accordingly.
- (iv) With disposal of the main application, Interim Application No.312/2024 is also disposed of.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
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