

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

ANTICIPATORY BAIL APPLICATION NO. 238 OF 2024

Prakash Sadashiv Chougale

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. B. T. Dravidar for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 29 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.425 of 2023 registered at Goregaon Police Station, Mumbai, under sections 420, 465, 467, 468, 471, 474, 120B r/w.34 of the Indian Penal Code and U/s.82 of the Registration Act, 1908.

2. Heard Mr. Dravidar, learned counsel for the applicant and Ms. Pallavi Dabholkar, learned APP for the State.

3. The F.I.R. is lodged by one Mahesh Gursale. The subject matter of the F.I.R. is the fraudulent transaction in respect of the land situated at village Manori, Taluka Borivali, Mumbai,

bearing survey Nos.244/2, 245/1,246 and 247/5, admeasuring 7 acres 36.50 Guntha (hereinafter referred to as the 'said land'). According to the first informant, the lands stood in the name of Maki Mistry, Patcy Mistry and Ardeshir Dubash. The informant was given power of attorney to look after those lands as Ardeshir was an N.R.I. The informant on enquiry came to know that one Moris Beny used the forged power of attorney purportedly given by these owners to him and sold those lands through three separate sale deeds. The two sale deeds were executed on 30.06.2022 and the third one was executed on 20.07.2022. The part of the land was sold to different purchasers namely Ashutosh Kalgutgi, Engineer and Yadav for huge amount. The allegations against the applicant are that, on the documents executed on 30.06.2022, he had signed as a witness to the execution of those documents. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the applicant has merely signed as a witness. He has not identified any of the parties. The fact that the documents were executed is undisputed. It is another matter that they were executed on the

basis of forged power of attorney, however, the applicant has no connection with execution of the alleged fraudulent power of attorney in favour of the aforementioned Moris. He, therefore, submitted that the applicant has not committed any offence.

5. Learned APP produced the investigation papers before me and in particular, those two documents where the applicant's signatures appear. She submitted that the investigation has revealed that the applicant had brought the other witness who has signed those documents as one of the two witnesses. She submitted that, beyond that nothing further is revealed, so far as, the applicant's role is concerned.

6. I have considered these submissions. Significantly, there are no allegations that the applicant was present or was a witness when the alleged power of attorney was executed in favour of the aforementioned Moris. The gist of the F.I.R. is that the said power of attorney was a forged document as the original owners had never executed that document. That document does not bear the applicant's signature. He has nothing to do with the

execution of that particular document, based on which next three sale deeds were executed. Therefore, at this stage, there is substance in the submission of the learned counsel for the applicant that, he is not involved in the main offence at all. Therefore, his custodial interrogation may not be fair. He can be directed to co-operate with the investigation.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.425 of 2023 registered at Goregaon Police Station, Mumbai, the applicant is directed to be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii) The Applicant shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)