IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 480 OF 2024

Ramesh Ramdular Yadav ..Applicant
Versus
The State of Maharashtra ..Respondents

Mr. Kuldeep S. Patil i/b. Saili Dhuru for Applicant.
Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 20 FEBRUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.7 of 2024 registered at Pen Police Station, District Raigad, on 10.01.2024, under section 420 of the Indian Penal Code.

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

3. The F.I.R. is lodged by one Laxman Bhoir. He has stated that, he has an ancestral land at Gat No.58/3/C, admeasuring 32.40R. The first informant and his brother Bharat are the co-

owners and the legal heirs of the earlier owners. In the year 2019, they decided to sell that land to the present applicant. That land was under a process of Section 32G of the Maharashtra Tenancy and Agricultural Lands Act. It is the case of the informant that, he had received Rs.5 lakhs for that transaction, however, the sale deed mentions that they had received Rs.10 lakhs. According to him, the said amount of Rs.10 lakhs is not actually paid to the first informant. The informant and his brother had executed a power of attorney in favour of the applicant. According to the informant, the applicant misused that power of attorney and entered into a sale deed based on that power of attorney and thus, had cheated the first informant. The informant had lodged their objection with the Tahsildar for not making the mutation entry in favour of the Applicant, but ultimately the Revenue authority had ruled in favour of the applicant. The informant had challenged that order before the S.D.O. Pen, But even that Appeal was dismissed. After that, this F.I.R. is lodged.

4. Learned counsel for the applicant invited my attention to the sale deed executed between the applicant on one side and

the informant and his brother as the second party. In that sale deed, every single page is signed by all of them. There is a specific averment of receiving Rs.10 lakhs by the informant and his brother. Even the cheque numbers and the amounts are mentioned in that clause. Thus, the sale deed itself accepts that the informant and his brother had received the amount of Rs.10 lakhs. He submitted that the sale deed was entered into by the informant and his brother themselves, therefore, there was no question of misusing the power of attorney in getting the sale deed executed. He submitted that the power of attorney was executed for registration of that sale deed and for doing all the ancillary work in respect of the proceedings U/s.32G of the M.T. & A.L.Act. He also relied on the bank account statement of the applicant which shows that, the cheques which were mentioned in the sale deed were actually encashed and the amount of Rs.10 lakhs was debited from the applicant's account.

5. Learned APP tried to submit that there are antecedents against the applicant. The F.I.R. mentions that the informant and his brother has not received Rs.5 lakhs and, therefore, the offence

is complete.

6. I have considered these submissions. The sale deed speaks for itself. Every single page of that sale deed is signed by the first informant and his brother. Therefore, there is no substance in the allegation in the F.I.R. that the sale deed was executed by misusing the power of attorney executed in favour of the applicant. The sale deed is not executed by using the power of attorney, but in stead it was executed by the parties themselves i.e. by the informant and his brother. Apart from that, the bank account statement of the applicant shows that Rs.10 lakhs, as mentioned against those cheques, were debited from the bank account of the applicant. It is also significant to note that the informant and his brother had tried to raise objection before the revenue authority and only after their Appeal was dismissed by the S.D.O., the present F.I.R. is filed by the informant. This all raises sufficient doubt against the applicant's complicity in the offence. Since in the present case, sufficient doubt is raised, the antecedents against the applicant will not come in his way to claim the relief U/s.438 of the Cr.p.c.

7. Hence, the following order :

<u>O R D E R</u>

i) In the event of his arrest in connection with C.R.No.7 of 2024 registered at Pen Police Station, District Raigad, 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 cooperate with the investigation.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)