

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

CRIMINAL BAIL APPLICATION NO. 848 OF 2023

Shivpratap Harivijay Bhosale

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Satyavrat Joshi i/b. Shubham Mhatre for Applicant.

Mr. Avinash A. Naik, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 28 MARCH 2024

P.C. :

1. The Applicant is seeking his release on bail in connection with C.R.No.1413 of 2020 registered at Chatushrungi Police Station, Pune, under sections 420, 465, 467, 468 and 471 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Satyavrat Joshi, learned counsel for the applicant and Mr. Avinash Naik, learned APP for the State.

3. The prosecution case is reflected in the F.I.R. itself. The F.I.R. is lodged by one Balkrushna Navle on 16.12.2020. He has stated that, one Sanjay Javanjal was his school friend. He was

residing in Australia. He had purchased a land at Survey No.31/2B/14, admeasuring 2.80R, at Baner, through a registered sale deed dated 05.02.1988. The revenue record mentioned his name. The informant was aware of this transaction. On 26.09.2022, Sanjay sent a message to the informant that, he came to know that the said land was taken by somebody through a forged sale deed. He requested the informant to look into the matter. Therefore, the informant made efforts and got a copy of the document dated 09.09.2020 which was registered with the Sub-Registrar vide the Registration No.9183/2020. It was revealed that the present applicant had prepared a forged power of attorney. It was not registered, but using that power of attorney, he sold that land through a registered sale deed to one Sadanand Awari and Kudartullah Khan, on 09.09.2020. On this basis the F.I.R. was lodged. The investigation was carried out. The applicant was arrested on 05.04.2022 and since then he is in custody.

4. Learned counsel for the applicant did not make any submission on merits of the matter. On instructions, he fairly conceded that, at this stage, there is some material against the

present applicant, which the applicant cannot explain. His only main contention was that the trial is pending before the J.M.F.C., Pune. The matter is not pending before the Chief Judicial Magistrate. He submitted that, at present, the matter is tried by the Magistrate who can impose maximum punishment of three years; out of which the applicant is already in custody for almost about two years. Therefore, his further custody without trial is not justified.

5. Learned APP opposed these submissions. According to him, if necessary, the learned Magistrate can refer this matter to the C.J.M. for a higher sentence. He submitted that, Section 467 of the I.P.C. is already invoked, in which, maximum punishment is life imprisonment. He further submitted that the offence is serious. The stamp used on the power of attorney is a forged stamp of the Sub Registrar to project as if it was a registered document. But, in fact, it was not the registered document. The said stamp was recovered from the house of the present applicant. Therefore, the offence is serious.

6. I have considered these submissions and I have perused the charge-sheet annexed to this application. As is clear from the charge-sheet, at this stage, there is sufficient material against the present applicant. The power of attorney is forged. The stamp used on the power of attorney is forged. The sale deed based on that power of attorney is forged. However, the learned counsel for the applicant submitted that, possession of the land is still with the first informant. There is substance in the submission of the learned APP that, all these documents are forged and even the stamp of the Sub Registrar is recovered from the applicant's house. All this will have to be taken into account by the trial Court when the matter ultimately reaches the stage of trial. Even today, the charges are not framed. Therefore it is not likely that trial would start in the near future and it would conclude within a reasonable time. Therefore, the applicant cannot be kept as an under trial prisoner for an indefinite period, especially when, as mentioned earlier, the Magistrate conducting the trial is not empowered to impose life imprisonment. The applicant is already in custody for about two years. Only on this ground, the applicant

deserves to be released on bail. Learned APP pointed out that, there are other offences pending against the applicant. In that case, the trial will take its own course, as far as, the other offences are concerned. Today I am deciding this bail application only in respect of the present subject matter.

7. Hence, the following order :

ORDER

- i) In connection with C.R.No.1413 of 2020 registered at Chatushrungi Police Station, Pune, 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) It is made clear that, this order is made only in respect of C.R.No.1413 of 2020 registered at Chatushrungi Police Station, Pune.
- iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)