

sg

1.aba1517-18.doc

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**ANTICIPATORY BAIL APPLICATION NO. 1517 OF 2018
WITH
INTERIM APPLICATION NO.1214 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 1517 OF 2018**

Laxmandas Arjandas Pahuja,
Age: 51, Occ: Business,
R/o: Paras Resi. Flat No.701,
Ulhasnagar, Thane)

...Applicant

vs.

1. The State of Maharashtra
(At the instance of Police Inspector,
Hill Line Police Station C.R.
No- I 154/2018)

2. Mr. Jamat Rameshlal Haseja,
Age: 46 years, Occ. Business
R/at: 601, Vilayatrai Apartment,
Near Ulhasnagar Municipal Corporation,
Ulhasnagar-3, District: Thane.

...Respondents

....

Mr. Monish Bhatia, (through VC), for the Applicant.

Ms. Shilpa Talhar, APP, for Respondent State.

Mr. Shyam Dewani, a/w. Mr. Chirag Chanani and Mr. Sachit Makhija, i/b. Dewani Associates, for Respondent No.2/original complainant.

Mr. Rajesh Kherde, PI, Hill Line Police Station present.

....

CORAM : R.N. LADDHA, J.

DATE : 1 APRIL 2024

P.C.:

. This anticipatory bail application is assigned to this Court by a special notice published on the website of this Court on 2 March 2024.

2. The applicant apprehends being arrested in relation to C.R. No.154 of 2018 registered at Hill Line Police Station, Thane, under Sections 420, 465, 467, 468, 471, read with 34 of the Indian Penal Code.

3. The prosecution contends that the complainant, Jamat Rameshlal Haseja, filed a police report asserting that he purchased a property, i.e. open plot adjacent to Block No.C-779 of Room No.1557 in Ulhasnagar for Rs.7,25,000/- from the original owner, Arjundas/Arjandas Harumal Pahuja, on 24 August 2009, by an unregistered sale agreement. According to the complainant, Arjundas Pahuja, acting as the seller, had sought approval from the competent authority to obtain a Sanad for the said open plot. They mutually agreed that the sale agreement would be registered upon receipt of the Sanad. Subsequently, Arjundas Pahuja passed away on 10 September 2015. The complainant continued to utilise the property in question as a storage facility for goods.

4. On 10 June 2018, in the presence of the complainant's workers at the said godown, the accused, Rajvindar Singh Ajit Singh, and his associates attempted to take possession of the said plot. Upon receiving this information, the complainant visited the location and informed Rajvindar Singh Ajit Singh that he had purchased the plot from the original owner, Arjundas Pahuja, in 2009. However, Rajvindar Singh Ajit Singh claimed that he purchased the plot from the applicant. After that, the complainant lodged a complaint with the police. During an enquiry with the Municipal Corporation, the complainant discovered a copy of a gift deed allegedly executed by Arjundas Pahuja in favour of his son, Laxmandas/Lacchmandas Pahuja (the applicant herein), on 3 October 2017, even though Arjundas had passed away on 10 September 2015.

5. It is alleged that the applicant in collusion with the co-accused Rajvindar Singh Ajit Singh, Lalitkumar M. Sukhwani, and Mangaram V. Khemani, prepared a fabricated gift deed. Using this fabricated gift deed, the applicant sought a name change in the records of the Ulhasnagar Municipal Corporation, submitting a copy of the purported gift deed. An affidavit was also filed by the applicant, with both the applicant and Mangaram V. Khemani signing as witnesses, despite being aware of Arjundas Pahuja's demise in 2015. The applicant then obtained tax receipts

for the property under his name from the Ulhasnagar Municipal Corporation, leveraging these forged and false documents. Subsequently, the applicant sold the open plot to co-accused, Rajvindar Singh Ajit Singh by a registered sale agreement dated 31 October 2017. As a result of this agreement, Rajvindar Singh Ajit Singh's name was officially recorded with the Ulhasnagar Municipal Corporation.

6. Heard Mr. Monish Bhatia, the learned Counsel representing the applicant, Ms. Shilpa Talhar, the learned Additional Public Prosecutor representing the State/respondent no.1, and Mr. Shyam Dewani, the learned Counsel representing respondent no.2, at length. This Court has given anxious consideration to the rival contentions and perused the material placed on record, including the written submissions.

7. The learned Counsel for the applicant submits that the father of the applicant, Arjundas Pahuja, died intestate on 10 September 2015. In September 2017, the applicant approached Mrs. Neetu to facilitate the transfer of the property in his favour in the records of Ulhasnagar Municipal Corporation. For this purpose, the applicant submitted several documents, including a 'No Dues' Certificate; death certificate of his father, Arjundas Pahuja; a consent letter from his siblings; an indemnity bond; a paper notice and affidavit dated 27 September 2017. After the

necessary application, the applicant received a change name receipt on 12 October 2017. However, the applicant alleges that certain individuals, with the assistance of the officers of the Municipal Corporation, replaced the submitted documents with the purported gift deed, indemnity bond, and a paper notice dated 10 October 2017. Upon receiving the change receipt dated 12 October 2017, the applicant discovered that the name change was based on an application filed on 10 October 2017. The applicant executed a registered sale agreement on 31 October 2017, selling the plot to co-accused Rajvindar Singh Ajit Singh. Notably, the agreement of sale from the same date does not mention the purported gift deed.

8. The learned Counsel for the applicant invites the attention of this Court to the statements of Sagar Blecy and Dinesh Marotiya recorded by the police in C.R.No.70 of 2021 registered with Sanpada Police Station, Navi Mumbai, to contend that these witnesses specifically stated to the police that the gift deed was prepared by somebody else at the instance of Mr Sukhdev Bambhani, an officer of the Ulhasnagar Municipal Corporation.

9. It is the grievance of respondent no.2 that, even though on 25 November 2019, this Court directed the applicant to produce the original/certified copy of the gift deed dated 3 October 2017, the applicant did not produce the gift deed. However, on perusal of the order dated 17 July 2023 (Coram: S.

M. Modak, J.), it reveals that the applicant has submitted a copy of gift deed as directed earlier. The order reads as follows:

“1. Affidavit of rejoinder and copy of the gift deed as directed earlier is filed. Copy supplied to the other side.

2. Mr. Dewani learned advocate for the first informant is in personal difficulty.

3. Interim relief granted earlier to continue till next date.

4. Matters be kept on 07th August, 2023 as part heard.”

The reason behind the applicant submitting an interim application to recall the Court’s order dated 25 November 2019 remains unclear, especially considering that the Court has already acknowledged the fulfilment of its directive.

10. The learned APP informs the Court that for want of original gift deed, the investigation cannot be concluded.

11. The allegations against the applicant primarily revolve around an alleged forged gift deed. On the other hand, the learned Counsel for the applicant contends that the applicant does not create the gift deed; rather, it was fabricated by the *de-facto* complainant. Notably, on 25 November 2019, when the order was passed to produce the original/ certified copy of the gift deed, no one was present on behalf of the applicant.

12. Since the beginning, it is the contention of the

applicant that the gift deed is forged and that he does not possess it. Moreover, the applicant did not rely on the purported gift deed at the time of registering his name with the Municipal Corporation. Instead, the copy of the gift deed submitted for record purposes was obtained by an application filed under the provisions of the Right to Information Act, 2005. Its worth noting that the prosecution claims the gift deed is a notarised rather than registered document, rendering the production of a certified copy unnecessary. Further, based on the applicant's complaint, an offence was registered against respondent no.2 and three others for fabricating documents, including the publication of notice, in connection with the present crime. Additionally, there are ongoing civil litigations between the parties related to the property in question. The prosecution does not assert that the applicant has no connection whatsoever, to this property, as it originally belonged to his father. Further, as per the prosecution, the applicant has attended the police station as and when called. Also, the execution of the alleged gift deed itself is in dispute. Admittedly, the applicant has been under protection since the year 2018. Furthermore, the record reveals that in Writ Petition No.2817 of 2018, filed by the co-accused Rajvindar Singh Ajit Singh, seeking quashing, the investigation has concluded, and the charge sheet is being presented to the trial court.

13. In the result, the interim protection granted by this Court by an order dated 16 August 2018 stands confirmed and

shall operate during the pendency of the trial. Needless to state that the applicant shall cooperate with the investigating agency, attend the police station as and when required, and shall not tamper with the prosecution evidence/witnesses. The criminal anticipatory bail application is accordingly disposed of. As a sequel, the pending application also stands disposed of.

14. It is made clear that the observations touching upon the merits in this order shall not be construed as an opinion expressed on merits and all contentions are left open to be considered during the course of the trial.

(R.N. LADDHA, J.)