

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

ANTICIPATORY BAIL APPLICATION NO.818 OF 2024

Kaif Akhlaq Patel Applicant
Versus
The State of Maharashtra Respondent

Ms. Mallika Ingale, Advocate for the Applicant.

Ms. Rajeshree V. Newton, APP for the Respondent-State.

Mr. Sandesh D. Patil, Advocate i/b. Chintan Shah for the orig.complainant.

CORAM : SARANG V. KOTWAL, J.

DATE : 26th MARCH, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.98/2024 registered at Manor Police Station, District-Palghar on 23.2.2024 under sections 420, 465, 467, 468, 471 read with 34 of IPC.

2. Heard Ms. Mallika Ingale, learned counsel for the Applicant, Ms. Rajeshree Newton, learned APP for the Respondent-State and Mr. Sandesh Patil, learned counsel for the orig.complainant.

3. The FIR is lodged by one Asha Bhalegao. She has stated that the land bearing Survey No.40 at Wada admeasuring 1 H 21 R was given to the informant's father's cousin by the Government. He was cultivating that land. He was not married. He had a sister by name Venibai. Said person named Manik Jadhav passed away on 11.8.1988. Thereafter the land as transferred in the name of Venibai. Subsequently she also died. The informant did not know in whose name the land stood and, therefore, she made inquiries through her son. She came to know that on 20.10.2000 one power of attorney was executed. It was a forged document in favour of one Majaj Dolare purportedly executed by Venibai. According to the first informant, the record showed that Venibai had passed away on 5.11.1995. Therefore, the power of attorney could not have been registered by her. It was forged. Based on that power of attorney the land was sold to one Prashant Pal on 20.12.2001. Subsequently Prashant Pal sold it to one Amin in 2003 and then it was sold to one Mehboob Alimohammed Asamadi in the year 2019. According

to the first informant, the first transaction itself was fraudulent because it was based on a forged power of attorney. On this basis the FIR is lodged. The FIR also mentions the Applicant's name.

4. Learned counsel for the Applicant submitted that the transaction in question was from the year 2000 and the FIR is lodged in the year 2024. In the meantime, a big hotel was constructed on that particular land and yet the informant did not make any inquiries. This is very difficult to believe. She further submitted that in any case there is hardly any role attributed to the present Applicant in the FIR itself. The main allegations are against Majaj. She submitted that the Applicant has not played any part in the transaction.

5. Learned APP submitted that the role attributed to the present Applicant is that he was a witness to the sale deed whereby Majaj sold that land to Prashant. The Applicant had identified Majaj in that document. Learned counsel for the first informant submitted that there is a definite role attributed to the present Applicant. The sale deed was executed within

three months of the purported execution of the power of attorney. Therefore, it cannot be said that the Applicant was not aware of the fraudulent nature of the transaction.

6. I have considered these submissions. From the allegations, the prosecution case is that Majaj had got the power of attorney executed fraudulently when Venibai was already dead. Therefore, he is the prime accused. Learned APP, on instructions, submitted that the Applicant has not signed that power of attorney. Therefore, the Applicant is not responsible. The Applicant has allegedly identified Majaj as power of attorney holder who had sold the land subsequently to Prashant. There is no dispute that Majaj had sold that land as power of attorney holder. Therefore, his identification by the Applicant was not wrong. At this stage, there is nothing to show that he was aware of the fraudulent nature of power of attorney purportedly executed by Venibai only because he was cousin of the said Majaj. In this view of the matter, the Applicant's custodial interrogation is not necessary. It would be sufficient if he cooperates with the investigation.

7. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.98/2024 registered at Manor Police Station, District-Palghar, the Applicant is directed to be released on bail on his furnishing PR 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 on 4th and 5th April, 2024 between 1.00 p.m. to 5.00 p.m. and thereafter as and when called. He shall cooperate with the investigation.
- (iii) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
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PRAKASHRAO
DESHMANE
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2024.04.01
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