

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

ANTICIPATORY BAIL APPLICATION NO. 1235 OF 2024

Shivaji Tukaram Gorhe

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Sandeep Parikh a/w. Prabhakar M. Jadhav for Applicant.

Ms. Poonam P. Bhosale, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 6 MAY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.165 of 2023 registered at Velha Police Station, Pune Rural, on 12.10.2023, under section 420 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Sandeep Parikh, learned counsel for the applicant and Ms. Poonam Bhosale, learned APP for the State.

3. The F.I.R. is lodged by one Ravindra Landekar. He has stated that he had purchased the land bearing Gat No.438 in village Nivi, admeasuring 120R on 15.09.2011 through a

registered sale deed. The informant's name was entered into the revenue record. On 01.12.2015, he received a notice from the S.D.O., Bhore in respect of the entry of the same land. The informant came to know that the applicant had earlier sold the same land to one Kailas Oza in the year 2007 through a registered agreement for sale. According to the first informant, thus, this fact was suppressed from him and he was induced into entering into sale transaction by the present applicant. On this basis the F.I.R. was lodged.

4. Learned counsel for the applicant submitted that the transaction between the applicant and the first informant is genuine. The aforementioned Kailas has filed R.C.S.No.1898 of 2018 in the court of C.J.J.D., Pune for permanent injunction and specific performance. In the suit, the applicant is the Defendant No.1 and the informant is the Defendant No.3. In that suit, the applicant has filed his written statement and he has taken a specific defence that the transaction between Kailas Oza and himself is not a genuine transaction. In that case, a forged power of attorney was used to execute that agreement for sale. The

applicant had never executed any such power of attorney enabling any other person to execute any document in respect of that particular property. Learned counsel, therefore, submitted that the F.I.R. is unnecessarily lodged. In any case, the informant was aware of this allegation in the year 2015 and till 2023 he did not file any F.I.R. In these circumstances, the applicant's custodial interrogation is not necessary.

5. Learned APP opposed this application. According to the investigating agency, the applicant has taken Rs.70000/- from the informant and he had suppressed the earlier transaction. Thus, there was cheating to the tune of Rs.70000/-.

6. I have considered these submissions. Since the applicant has taken a specific stand that he had not signed any document in favour of a third person Oza and that the said transaction with said Oza was based on the forged power of attorney, the applicant has a reasonable defence. In any case, the informant knew about the alleged transaction with said Oza in the year 2015 itself. The F.I.R. is lodged by him on 12.10.2023. This is

unexplained delay. Considering both these aspects, custodial interrogation of the applicant is not necessary. He can be protected U/s.438 of the Cr.p.c.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No.165 of 2023 registered at Velha Police Station, Pune Rural, 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 Application is disposed of.

(SARANG V. KOTWAL, J.)