

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

ANTICIPATORY BAIL APPLICATION NO. 2461 OF 2023

Kerba Shripati Yadav

..Applicant

Versus

The State of Maharashtra

..Respondent

Mr. Anand S. Patil for Applicant.

Ms. Pallavi N. Dabholkar, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 16 JANUARY 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No. 408 of 2023, registered at Juna Rajwada Police Station, Kolhapur, on 19.06.2023, under sections 420 and 406 r/w. 34 of the Indian Penal Code.

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

3. The F.I.R. is lodged by one Govind Gulawani. He had purchased a land in Kolhapur in 'A' ward, R.S.No.1175, Hissa No.2, admeasuring 4 guntha from the present applicant through a

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registered sale deed in the year 1990-91. On 11.12.2022, he went to that plot. He saw two unknown persons there. He made enquiries with them. They threatened him and told him that they had purchased that land. The first informant then went to the Talathi's office on the next day and removed a 7/12 extract. He found that one Kiran Patil was shown as the owner of that plot. He made further enquiries. He came to know that a forged power of attorney purportedly executed by the informant himself in favour of one Seema Joshi was used for further transactions. That power of attorney was purportedly executed in 1999. Based on that document, the land was sold and the sale deed was registered on 20.05.2011. It was revealed that the said Seema Joshi had given her power of attorney to her son Pravin Joshi and then the sale deed was executed. It was shown that Seema Joshi was present in the office of the Sub Registrar on 20.05.2011, but in fact, she had passed away on 11.05.2011. Thus, according to the first informant, the execution of the sale deed, as well as, the registration were fraudulent. On this basis the F.I.R. is lodged.

4. Learned counsel for the applicant submitted that the

applicant had merely signed as a witness to the execution of the sale deed executed by Seema Joshi on 20.05.2010. On that date, she was very much alive. There are no allegations that the applicant was in any way connected with the forgery of the power of attorney purportedly executed by the informant in favour of Seema Joshi. He submitted that, at the time of registration of sale deed, the applicant was not present and he had not identified any impostor or any parties to the sale deed. He submitted that the applicant who is 73 years of age has undergone hip joint replacement surgery.

5. Learned APP relied on the allegations in the F.I.R. But she conceded that, at the time of registration of the concerned sale deed, the applicant was not present and his signature does not appear for registration of the document.

6. I have considered these submissions. The informant had purchased the said land from the applicant in the year 1990-91. Thereafter, till 2022 the informant was complacent about his rights. The sale deed in favour of Kiran Patil was registered in the

year 2011. Even thereafter for about 11 years the informant did not take any steps. However, the fact remains that the applicant had signed the sale deed at the time of its execution on 20.05.2010. That time, Seema Joshi was alive and there was recital in the sale deed that there was power of attorney in favour of one Pravin Joshi. However, curiously, the document was signed by Seema Joshi and not by Pravin Joshi. Therefore, there is some substance in the allegation of the informant. However, the applicant's role is limited to ascribing his signature as a witness to the execution of that document. There is no further allegation against him. He has no connection to the registration of that document. Therefore, in this background, considering his age and the medical condition, his custodial interrogation may not be necessary.

7. Hence, the following order :

ORDER

- i) In the event of his arrest in connection with C.R.No. 408 of 2023, registered at Juna Rajwada Police Station, Kolhapur, 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.)