

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

ANTICIPATORY BAIL APPLICATION NO.126 OF 2024

Mahadev Bapurao GawaleApplicant
Versus
State of Maharashtra & Anr. Respondents

Mr. Ashok M. Saraogi, Advocate for the Applicant.
Ms. Pallavi N. Dabholkar, APP for the Respondent-State.
Ms. Apurva Thipsay, Advocate a/w. Himanshu Agarwal i/b.
Bellator Legal Services LLP for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 17th JANUARY, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.908/2023 registered at Oshiwara Police Station, Mumbai on 5.10.2023 for the offences under Sections 406, 409, 465, 467, 468, 471 of IPC.

2. Heard Mr. Ashok Saraogi, learned counsel for the Applicant, Ms. Pallavi Dabholkar, learned APP for the Respondent-State and Ms. Apurva Thipsay, learned counsel for the Respondent No.2.

3. The FIR is lodged by one Aakash Rajendraprasad Singh. His grand-father had two shops – one at Second Cross Lane, Lokhandwala and other at Sahakar Nagar, Apana Bazar, Andheri. Both these shops were having business of dairy and were managed by the informant's father. The informant's grand-father prepared gift deeds in respect of these two shops in favour of the informant by executing two deeds in the year 2016 and 2018. The informant's grand-father passed away in September, 2021. The present Applicant was assisting the informant's father in managing the shop at Andheri. According to the informant, the Applicant was working as a Manager. Slowly the informant's father started depending more and more on the Applicant. In June, 2023, the informant's father passed away. After that the informant went to the shop but the Applicant refused to handover possession and instead filed Civil Suit No.1654/2023 in the City Civil Court against the informant and his mother. The Applicant relied on certain documents in the nature of Promissory Note etc. which purportedly bore

the signatures of the informant's father. It was contended by the Applicant that he had given Rs.1.50 Crores by way of loan to the informant's father and in lieu thereof he had taken the shop for running the business till 2032. According to the informant, all these documents were forged and, therefore, he filed the complaint. Initially, the informant approached the Magistrate's Court. An order under Section 156(3) of Cr.P.C. was passed, pursuant to which the FIR is lodged.

4. Learned counsel for the Applicant submitted that the Applicant had lost the Notice of Motion and the subsequent Appeal From Order in respect of possession of that shop. As of today, an SLP is pending against those orders. He submitted that the Applicant has cooperated with the investigation and has produced all the documents necessary before the police for investigation. He submitted that he has produced a Promissory Note dated 18.5.2022, a Mortgage Deed dated 18.5.2022 and Agreement for Sale dated 4.10.2022 with the police. He submitted that the

signature of the informant's father can easily be verified by comparing the signature with the natural or accepted signatures. He submitted that the evidence is in the nature of documentary evidence. The documents are already with the police and, therefore, the Applicant's custodial interrogation is not necessary.

5. Learned counsel for the first informant submitted that the informant himself has filed a Civil Suit against the Applicant in the City Civil Court at Dindoshi. In that Suit, the injunction is granted in favour of the informant and as of today the possession of the shop is with the informant. She submitted that on the face of it the signatures of the father of the informant can be seen to be forged and, therefore, the Applicant's custodial interrogation is necessary.

6. Learned APP submitted that the Applicant has furnished the original documents of the Promissory Note and the Mortgage Deed, but, he has furnished a photo-copy of the agreement of sale. The Applicant needs to produce all the original documents.

7. Learned counsel for the Applicant states that whatever original documents documents are in the possession of the Applicant, those will be produced before the police.

8. Considering this situation, it is necessary to grant time to learned APP so that the handwriting expert's opinion regarding the signatures is available for Court's consideration.

9. Learned APP seeks four weeks' time to make statement and produce the report of the handwriting expert. She submitted that the Applicant be directed to cooperate with the investigation by attending the police station and by producing the original documents.

10. Considering these submissions, today I am adjourning the matter with ad-interim protection to the Applicant, with directions to attend the police station and to cooperate with the investigation.

11. Hence, the following order:

ORDER

- (i) In the event of his arrest in connection with C.R.No.908/2023 registered at Oshiwara Police Station, Mumbai, till the next date, the Applicant be released on bail on his executing a PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) This order shall operate till 28.2.2024.
- (iii) The Applicant shall attend the concerned Police Station from 22.1.2024 to 25.1.2024 between 1:00 p.m. to 5:00 p.m. and thereafter as and when called. The Applicant shall cooperate with the investigation.
- (iv) Stand over to 28.2.2024.

(SARANG V. KOTWAL, J.)