

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

ANTICIPATORY BAIL APPLICATION NO. 256 OF 2024

Sharad Shankar Yadav & Anr.

..Applicants

Versus

The State of Maharashtra

..Respondent

Mr. Sachin Khandagale for Applicants.

Mr. Swapnil V. Walve, APP for State/Respondent.

Ms. Surbhi Agarwal for Intervenor.

CORAM : SARANG V. KOTWAL, J.

DATE : 22 AUGUST 2024

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.894 of 2023 registered at Saswad Police Station, Pune Rural, on 23.12.2023, under sections 406 and 420 r/w. 34 of the Indian Penal Code.

2. Heard Mr. Sachin Khandagale, learned counsel for the applicants, Mr. Swapnil Walve, learned APP for the State and Ms. Surbhi Agarwal, learned counsel for the Intervenor.

3. The F.I.R. is lodged by one Kalawati Yadav. She has stated that her husband Dinkar Yadav has passed away. She has four daughters. She was residing with them. She had an ancestral property at village Devdi. That property was admeasuring 5 acres. She had another land at Gat No.48 admeasuring 115 Gunthas. The Applicants Sharad Yadav and Sandip Yadav were nephews of the first informant. It is her case that the Applicant Sharad told her that the common land at Gat No.48 was to be sold and the other co-accused were also willing to sell that property. The informant was agreeable to sell that piece of land. Therefore, the sale deed was executed on 06/06/2018. It was also registered. It is her case that in respect of that sale the Applicant Sharad had given her a cheque of Rs.2,50,000/-. But it was dishonoured. She did not receive any amount in respect of that sale. That is the first part of the allegations. The second part of the allegations is that, on the same day, the Applicants got one release deed executed in respect of other Gat numbers. That was done by deceit. The informant was not told about the contents of that particular document. The sale deed as well as the release deed were executed and registered on

06/06/2018. The informant used to trust the Applicants and the Applicants were cultivating that ancestral property. After a few years she came to know that in the revenue record her name was not appearing and it stood only in the name of the Applicants and one Tushar Yadav, who was the Applicant No.1's son. She realized that she was cheated and on this basis, the F.I.R. is lodged.

4. Learned counsel for the Applicants submitted that those documents dated 06/06/2018 are genuine documents. They are registered in accordance with law. The first informant realized that the price of the property has escalated and therefore she has raised this dispute. He further submitted that the informant had lost the remedy of taking recourse to civil litigation because it was beyond limitation and therefore she has taken recourse of filing of this F.I.R. to pressurize the Applicants. He further submitted that the first informant has received her share of the amount from the purchaser directly. The Applicants have not deprived her of the money which is earned by selling that land. He submitted that the documents were registered before the authorities and therefore there cannot be any manipulation in respect of those documents.

Learned counsel submitted that, a civil dispute in respect of the same documents is already pending before the C.J.S.D. Pune, vide the Special Civil Suit No.284 of 2024.

5. Learned counsel for the Respondent No.2/first informant submitted that the release deed was executed without telling the informant the real nature of the contents of that release deed. She was kept in the dark and by deceit she was made to put her thumb impression.

6. On the last occasion, an issue was considered whether the informant's daughter Manisha who was an educated lady would put her thumb impression and not sign those documents. However, today, learned counsel for the Respondent No.2 fairly submitted that, on that date of registration of the documents, Manisha, the daughter of the informant, had suffered fracture of her hand and, therefore, her thumb impression was obtained.

7. There is no dispute that, both the documents referred to in the F.I.R. are the registered documents. Their execution is dated 06.06.2018 and, thereafter this complaint is filed in

December 2023. There is unexplained delay in lodging the F.I.R. Therefore, there is substance in the submission of the learned counsel for the applicants that, because of escalation of price, the informant has lodged this F.I.R. to get more money. At this stage, it is not necessary to express any positive opinion on this submission. However, since the F.I.R. is about the registered documents and since the grievance is made after a few years, the applicants have this fact in their favour for consideration of anticipatory bail. In addition, the learned APP, on instructions, states that after ad-interim protection was granted, the applicants have attended the police station and have also co-operated with the investigation. Therefore, I see no reason to deny the protection of anticipatory bail order in favour of the applicants.

8. Hence, the following order :

ORDER

- i) In the event of their arrest in connection with C.R.No.894 of 2023 registered at Saswad Police Station, Pune Rural, the applicants are directed to be released on bail on their executing P. R. bonds

in the sum of Rs.30,000/- each (Rupees Thirty Thousand each Only) with one or two sureties each in the like amount.

- ii) The Application is disposed of.

(SARANG V. KOTWAL, J.)