

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

ANTICIPATORY BAIL APPLICATION NO.1550 OF 2024

Tushar Balaram Phaste Applicant
Versus
The State of Maharashtra Respondent

Mr. Dilip P. Kamath, Advocate for the Applicant.
Smt. Sangita D. Shinde, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 12th AUGUST, 2024

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.82/2023 registered at Badlapur (West) Police Station, District-Thane on 6.4.2023 under sections 420, 406 read with 34 of IPC.

2. Heard Mr. Dilip Kamat, learned counsel for the Applicant and Smt. Sangita Shinde, learned APP for the Respondent-State.

3. The FIR is lodged by one Satya Yadav. She has stated that she had purchased a land at village Ambeshiv, Taluka – Ambernath at Survey No.9, Hissa No.5 admeasuring

25 Gunthas from one Mahesh Phaste for Rs.5 Lakhs. It was through a registered sale deed. The informant was unable to look after that land and, therefore, she decided to sell it to the brothers of Mahesh. They were Amol Phaste and the present Applicant. The sale price was fixed at Rs.80 Lakhs. The Applicant gave Rs.2 Lakhs by cheque to the informant. The balance amount of Rs.78 Lakhs was to be paid by Demand Draft at the time of registration. On 6.4.2023, the informant had gone to the Sub-Registrar's office with her relative Lalbahaddur Yadav and her cousin Sarita Yadav. At that time, Amol Phaste, under some pretext, took Lalbahaddur with him in his car. He gave Demand Draft No.031048 purportedly issued by the Canara Bank, Kulgaon Branch and told him to make a phone call to the informant that he had received the D.D. and that she should sign the sale deed for registration. Accordingly the sale deed was registered at 4.30 p.m. on 6.4.2023. In the meantime, Lalbahaddur had taken photograph of the said D.D. in his mobile phone. Amol Phaste and Lalbahaddur came to the Registrar's office after some

time. When Lalbahaddur was handing over that D.D. to the informant, Amol Phaste took it with him on the pretext of taking photograph but afterwards he did not return it and instead gave some evasive replies. He gave some cheque instead, but the informant got suspicious about that cheque. She realized that she was cheated and, therefore, she lodged the FIR.

4. Learned counsel for the Applicant submitted that the sale deed mentions the sale price as Rs.2 Lakhs. There was no mention of Rs.78 Lakhs at all. He further submitted that the informant and the Applicant entered into another document which was a deed of cancellation. It was executed and registered on 25.5.2023. In that cancellation deed, there is a reference to the present C.R. No.82/2023. The recital further mentions that the parties had decided to mutually cancel the sale deed dated 6.4.2023 and accordingly the sale deed was canceled. The amount of Rs.2 Lakhs was returned to the Applicant. Learned counsel, therefore, submitted that no loss is caused to the informant.

5. Learned counsel for the Applicant relied on the order dated 3.5.2024 passed by this Court in A.B.A. No.1193/2024 granting anticipatory bail to the Applicant's brother Amol Phaste. Learned counsel submitted that on parity, the Applicant deserves the same protection. He submitted that there are no allegations regarding showing the D.D. to Lalbahaddur and taking it away, against the Applicant.

6. Learned APP submitted that the question of preparing the forged D.D. still remains and, therefore, custodial interrogation of the Applicant may be necessary. However, she conceded that the Applicant's case is on par with that of his brother Amol Phaste. Therefore, the principles of parity applies in this case.

7. I have considered these submissions. As rightly submitted by learned counsel for the Applicant, on the principles of parity the Applicant deserves the same protection. It was observed in the earlier order passed in favour of the co-accused Amol Phaste that the cancellation deed signified that the informant had not suffered any loss. The land was still in

her name. The Applicant and Amol Phaste have not become owners of the land. The possession of the land was still with the informant. On these reasonings, Amol Phaste was granted anticipatory bail. The same reasons apply to the case of the present Applicant as well. Therefore, he also deserves the same protection. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R.No.82/2023 registered at Badlapur (West) Police Station, District-Thane, 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) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)

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by
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