

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1719 OF 2024

Sanjay Kumar Singh
Nidhi Rajput

... Applicants

Vs.

State of Maharashtra

... Respondent

Dr. Uday Warunjikar a/w. Mr. P. D. Purway, Mr. Akshay Bhalerao i/b. Mr. Omkar D., Mr. Priyal Gupta and Mr. Ajinkya Dinwade for Applicants.

Mr. Mayur S. Sonavane, APP for Respondent-State.

Ms. Rekha Musale i/b. Mr. Mahendra Kawchale for Complainant / Informant - Proposed intervener.

CORAM : MANISH PITALE, J.

DATE : JULY 01, 2024

P.C. :

1. Heard Dr. Warunjikar, learned counsel appearing for the applicants, Mr. Sonavane, learned APP appearing for the respondent - State and Ms. Musale, learned counsel having instructions to appear on behalf of the first informant.

2. The applicants apprehend arrest in connection with FIR No.0197 of 2024 dated 06.06.2024 registered at Khadak Police Station, District - Pune, for offences under Sections 406 and 420 of the Indian Penal Code, 1860 (IPC).

3. Having heard the learned counsel, this Court finds that the grievance of the informant emanates from a development agreement dated 16.12.2022 executed between the informant and a partnership firm of which the applicants are stated to be partners. In line with the execution of the development agreement, the informant had also executed a power of attorney to facilitate the development of the property. The informant is the owner of the property.

4. The grievance of the informant is that there were certain specific stipulations in the development agreement as well as the power of

attorney and other documents, which have been blatantly violated by the applicants, and therefore, the ingredients of the aforesaid offences are clearly made out.

5. On the other hand, the learned counsel appearing for the applicants submits that it cannot be alleged, in the facts and circumstances of the present case, that the applicants had an intention to cheat the informant from the very beginning.

6. The material on record shows that the informant has filed Special Civil Suit No.814 of 2024 in April, 2024 before the Competent Court at Pune. In the prayer clause, the informant has prayed for various reliefs including cancellation of certain documents executed by the applicants in favour of third party purchasers on the ground that conditions of the development agreement and the power of attorney were violated, apart from praying for direction to the applicants to pay amounts of Rs.104 crores, Rs.14.42 crores and Rs.20 crores along with interest. The last component of Rs.20 crores pertains to the claim of damages being raised by the informant against the applicants.

7. Considering the material on record, this Court finds that *prima facie* case is made out by the applicants in their favour, as the dispute between the parties, at this stage, appears to have emanated from the development agreement and hence, it is of civil nature. The informant has already knocked the doors of the competent civil court seeking appropriate reliefs. Even if eventually the informant is able to place material on record and the investigation reveals sufficient material to demonstrate ingredients of the said offences against the applicants, it would be a matter for trial. The evidence and material in such cases is necessarily documentary in nature and so long as the applicants are ready to co-operate with the investigating officer and produce all the necessary documents and material before the officer, a case is made out

for granting relief in the present application.

8. In view of the above, the application is allowed in the following terms:-

- A. In the event the applicants are arrested in connection FIR No.0197 of 2024 dated 06.06.2024 registered at Khadak Police Station, District - Pune, they shall be released on bail on furnishing PR Bond of Rs.50,000/- [Rupees Fifty Thousand only] each with one or two sureties in the like amount;
- B. The applicants shall remain present before the investigating officer between 10:00 a.m. and 12 noon on 04.07.2024 and 05.07.2024 and thereafter, as and when called by the investigating officer. They shall co-operate with the investigation;
- C. The applicants shall make available all the material in their possession which the investigating officer finds relevant to carry out a comprehensive investigation;
- D. The applicants shall not influence the informant, witness or any person concerned with the case and they shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions would make the applicants liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

10. The application is disposed of.

(MANISH PITALE, J.)