

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1731 OF 2024

Hitesh Ramrao Patil ... Applicant

Vs.

State of Maharashtra and another ... Respondents

WITH

ANTICIPATORY BAIL APPLICATION NO.1514 OF 2024

1. Jagannath Raghunath Puro

2. Ganesh Pandharinath Puro ... Applicants

Vs.

State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.2598 OF 2024

IN

ANTICIPATORY BAIL APPLICATION NO.1514 OF 2024

Mr. Rajendra V. Pai, Senior Advocate a/w. Mr. Akshay Pai, Ms. Nomita Mestry, Mr. Shanmukh Puranik and Ms. Priyanka Rammurthy i/b. Mr. Bhomesh Bellan for Applicant in ABA/1514/2024.

Mr. Arshad Shaikh, Senior Advocate a/w. Mr. Shishailya S. Deshmukh for Applicant in ABA/1731/2024.

Mr. Tanveer Khan, APP for Respondent-State in Applications.

Mr. Harshad Bhadbhade i/b. Ms. Padma Chinta for Respondent No.2 in ABA/1731/2024 and for Applicant in IA/2598/2024.

CORAM : MANISH PITALE, J.

DATE : SEPTEMBER 09, 2024

P.C. :

. Heard learned senior counsel for the applicants in these two applications, the learned APP for the respondent-State and the learned counsel appearing for the intervener (first informant).

2. In Anticipatory Bail Application No.1514 of 2024, on 13.06.2024, this Court granted interim relief in favour of the applicants - Jagannath

Raghunath Puro and Ganesh Pandharinath Puro. Applicant No.2 i.e. Ganesh Pandharinath Puro was directed to appear before the investigating officer on 19.06.2024 and both the applicants were directed to co-operate with the investigation. While granting interim relief in favour of the said applicants, in paragraph 7 of the order dated 13.06.2024, this Court observed as follows:-

“7. Having perused the material on record, particularly, the tenor of the statement of the informant leading to registration of the FIR, *prima facie*, this Court is of the opinion that the dispute appears to be of civil nature. In any case, the allegation of cheating has been made against the applicants in the context of delay in execution of sale deed despite have been received amount of Rs.26,00,000/- in the year 2010. It is not the case of even the informant that the aforesaid sale deed dated 27th March 2024, pertaining to the subject land was executed by the applicants as the power of attorney holders of the original owner. Therefore, a strong *prima facie* case is indeed made out by the applicants in their favour. Additionally, this Court finds that both the applicants are senior citizens and one of them is 87 years old. While the informant may file the application for intervention, the applicants have made out a case for interim relief.”

3. Thereafter on 27.06.2024, this Court granted interim relief in favour of the applicant - Hitesh Ramrao Patil in Anticipatory Bail Application No.1731 of 2024. While granting interim relief, in paragraphs 4 and 5 of the said order, this Court observed as follows:-

“4. In the present case, this Court has already granted interim protection to the named accused persons, who are holding power of attorney of the original owner of the land. This Court has found that the grievance of the informant appears to be that, despite the informant having entered into an agreement to sell with the said accused persons, they failed to execute sale deed and in the meanwhile, the original owner of the subject land executed the sale deed in favour of third party. The said third party is the applicant before this Court in the present application.

5. Considering the reasons given in the order dated 13.06.2024 passed by this Court in Anticipatory Bail Application No.1514 of 2024, while granting interim protection to the named accused persons, coupled with the fact that the applicant *prima facie* appears to be a *bona fide* purchaser for value from the original owner and also taking into consideration the fact that the applicant is not named as an accused in the subject FIR, this Court is inclined to grant interim relief.”

4. Mr. Khan, learned APP, on instructions, submits that the three applicants have co-operated with the investigation, they have remained present before the investigating officer and they have also submitted documents in their possession in order to assist the investigating officer.

5. Mr. Pai, learned senior counsel appearing for the applicants in Anticipatory Bail Application No.1514 of 2024 submits that the dispute essentially is of civil nature and that in any case, the informant cannot have any grievance against the applicants in the said anticipatory bail application. The sale deed in question (registered on 27.03.2024) was executed by the original owner in favour of the purchaser i.e. the applicant Hitesh Ramrao Patil in the accompanying application. The grievance, if at all, of the first informant can be against the original owner and not the said applicants. Attention of this Court is invited to a proceeding initiated before the revenue authorities in June 2024, wherein the first informant has specifically pleaded in the context of the aforesaid sale deed that the original owner has cheated the first informant by selling the subject land by means of the aforesaid sale deed in favour of the applicant in the accompanying application. There is no grievance raised against the applicants in Anticipatory Bail Application No.1514 of 2024, who were the power of attorney holders of the original owner.

6. Attention of this Court is also invited to the civil suit bearing Special Civil Suit No.50 of 2024 filed before the competent civil court

by the said applicants, wherein the original owners as also the first informant and the subsequent purchaser i.e. the applicant in the accompanying application have been added as defendants amongst other defendants. It is submitted that the said applicants have prayed for setting aside the aforementioned sale deed registered on 27.03.2024 and also specifically sought an order, recognizing the fact that the power of attorney, executed in favour of the said applicants, is still subsisting and existing. On this basis, it is submitted that remedial measures have been taken by the said applicants before the competent civil court, while the first informant has made allegations only against the original owner and the subsequent purchaser. On this basis, it is submitted that this Court may confirm the interim order and allow the anticipatory bail application.

7. Mr. Shaikh, learned senior counsel appearing for the applicant - Hitesh Ramrao Patil in accompanying Anticipatory Bail Application No.1731 of 2024 has submitted that the said applicant was not arraigned as an accused when the FIR was registered. In fact, it is pointed out that even before the Sessions Court and this Court when the interim order was passed, it was not informed that subsequently, the said applicant has been arraigned as an accused person. It is only today, during the course of hearing, the learned APP has made a statement, on instructions, that now the said applicant is indeed arraigned as an accused person. It is submitted that the said applicant has approached the Sessions Court and this Court as he was served with notice during the course of the investigation. He submits that in such circumstances, the investigating authority should at least furnish a copy of the relevant documents, which show that the said applicant is now arraigned as an accused person. It is submitted that the aforesaid applicant is a *bona fide* purchaser for value from the original owner, without any knowledge of the said land having been already allegedly sold to the first informant by the applicants in the

accompanying application. It is pointed out that the applicant had undertaken due diligence by causing a title search to be conducted and public notices to be issued before entering into the transaction. On this basis, it is submitted that since the applicant has co-operated with the investigation, this Court may confirm the order and allow the anticipatory bail application of the applicant.

8. As noted hereinabove, the learned APP has submitted that all the three applicants have co-operated with the investigation. The learned counsel appearing for the first informant submits that the accused persons connived with each other to execute the subject sale deed and ingredients of the alleged offences are made out against the accused persons. It is submitted that the subject land is a landlocked piece of land for which access is only through the land belonging to the first informant and in such a situation, it is not believable that the applicants were unaware about the fact that the original owner executed the aforesaid sale deed registered on 27.03.2024 in favour of the applicant - Hitesh Ramrao Patil.

9. Upon hearing the learned senior counsel for the applicants and the intervenor as also the learned APP, this Court is inclined to confirm the interim orders and allow the applications.

10. The learned APP has submitted that all the applicants have indeed co-operated with the investigation. They remained present before the investigating officer and produced the documents in their possession.

11. The above-quoted paragraphs from interim orders passed by this Court indicate the reasons why this Court reached the finding that a strong *prima facie* case is made out by the applicants in their favour. The said reasoning is further supported by the documents pertaining to the revenue proceedings and the civil suit brought to the notice of this Court.

It is also an admitted position that now the original owner is also arraigned as an accused person. In fact, he was arrested and subsequently, released on regular bail.

12. In such circumstances, the applicants have indeed made out a strong *prima facie* case in their favour and hence the applications deserve to be allowed.

13. In view of the above, the interim order dated 13.06.2024 passed in Anticipatory Bail Application No.1514 of 2024 and interim order dated 27.06.2024 passed in Anticipatory Bail Application No.1731 of 2024 are confirmed and the said applications are allowed. The applicants shall continue to co-operate with the investigation and they shall not influence the informant, witnesses or any other persons concerned with the case.

14. In view of the disposal of Anticipatory Bail Application No.1514 of 2024, nothing survives in Interim Application No.2598 of 2024 and the same is disposed of accordingly.

(MANISH PITALE, J.)

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