

Nikita

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

ANTICIPATORY BAIL APPLICATION NO.1770 OF 2024

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KAILAS
DARADE

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Walmik Navnath Salunke

... Applicant

Versus

The State of Maharashtra

... Respondent

Mr, Ashok Mundargi Sr. Adv. a/w Ms. Swarali Joglekar
for the Applicant.

Mr. Mayur Sonavane, APP for the State.

Mr. Sagar Kasar a/w Ms. Chaitali Bhogle a/w Mr.
Rishabh Tiwari, a/w Mr. Amol Wagh a/w Mr. Sachin
Patil a/w Mr. Vivekanand Krishnan for the Intervener.

Mr. Angat Nemane, PSI, Chaturshrungi Police Station,
Pune City is present.

CORAM : MANISH PITALE, J.

DATED : 10th JULY, 2024.

P.C.:

1. Heard, Mr. Ashok Mundargi for the Applicant. Mr. Mayur Sonavane, learned APP for the State and Mr. Sagar Kasar learned counsel for intervener for the Intervener.
2. Learned counsel for the intervener is having instructions to file an intervention application in the present application.

3. The applicant is apprehending arrest in connection with C.R. No.332 of 2024 dated 10th April 2024, registered at Chatushringi Police Station for offences punishable under Sections 82, 420, 465, 467, 468, 441, and 34 of the IPC.
4. The informant in the present case, is an officer from the office of the sub-registrar. The allegation against the applicant is that an order granting permission for non-agricultural use of a piece of land purportedly issued by the office of the Tahsildar Haveli (Pune) is a forged document and that such a forged document was used by the applicant while getting a sale deed executed in his favour. The informant has referred to a letter dated 7th February 2024 received from the office of the Tehsildar informing the office of the sub-registrar that the order of non-agricultural permission dated 8th August 2024, used while getting sale deed executed in favour of the applicant, was never issued by the office of the Tehsildar.
5. Learned senior Counsel appearing for the applicant submits that in the present case, Rajesh Nayadu and Rakesh Nayadu (hereinafter referred to as “ Naidu brothers”), entered into a registered agreement to sale on 1st December 2020 with the

applicant in respect of the subject land. A registered power of attorney, also dated 1st December 2020, was executed by the Naidu brothers in favour of the applicant. On the strength of the said registered power of attorney, the applicant on 9th August 2023 executed a registered sale deed in his own favour with respect to the said land. It is submitted that the order granting non-agricultural permission dated 8th August 2023 was placed on record with the registered sale deed and it forms part of the record of the office of the Sub-registrar.

6. It is submitted that the Tehsildar had issued a communication on 1st December 2020 to the office of the sub-registrar giving a list of transactions in Tehsil Haveli, wherein it was found that such forged orders of non-agricultural permission were used.

7. The copy of the said communication is tendered in the Court and the same is taken on record and marked "X" for identification.

8. It is submitted that said communication indicates that there were other instances also during the relevant period when such forged orders were used while executing registered documents for sale in the said Tehsil. It is further brought to the notice of this

Court that dispute arose between the Naidu brothers and applicant and in that context the applicant had submitted a complaint to the police on 27th June 2023 on a specific grievance that although the Naidu brothers had executed the agreement to sale with the applicant, they were also entering into a transaction with a third party and they had cheated the applicant. The Applicant filed a complaint on 18th February 2024, in which, similar grievance was raised and it was stated that an advocate appearing on behalf of the Naidu brothers had assured the applicant that the sale deed could be executed as order of non-agricultural permission had been obtained.

9. It is brought to the notice of this Court that the Naidu brothers have also filed a civil suit in the year 2023 against the applicant, complaining that the transaction with the applicant was a money lending transaction and that the registered agreement to sale and the registered power of attorney were to be cancelled. It is undisputed that an application for temporary injunction moved in the said suit was dismissed and the matter is now pending before the Appellate Court. In this backdrop, it is submitted on behalf of the applicant that this Court may consider

granting protection from arrest to the applicant as he is ready to cooperate with the investigation.

10. Learned APP submitted that the during the course of investigation, statement of one of the Naidu brothers is already recorded and also statements of other witnesses have also been recorded showing that the said order of non agricultural permission is a forged document. The applicant being the only beneficiary, is clearly involved in the process of procuring such a forged document and, therefore, custody of the applicant is necessary for further investigation into the matter.

11. Learned counsel for the intervener having instructions to appear on behalf of the Naidu brothers submits that intervention application can be placed on record along with all relevant documents to demonstrate that the applicant being the only beneficiary in the aforesaid transaction, he is responsible for the forged document and that he deserves no indulgence.

12. The material brought to the notice of this Court on behalf of the applicant and the rival submissions indicate that as of today, there is dispute between the Naidu brothers and the applicant. The aforesaid civil suit is pending and the order dismissing the

application for temporary injunction is challenged by the Naidu brothers before the Competent Court.

13. In view of the the facts of the present case, it can be said that the applicant is indeed the beneficiary of the order dated 8th August 2023, granting non-agricultural permission for the reason that the registered sale deed dated 9th August 2023 has been executed, *inter alia*, on the basis of the said order.

14. If such a purported forged order was a singular instance, it would have been a different matter, but the material on record brought to the notice of this Court shows that there has been a spate of such forged orders of non agricultural permission on the basis of which registered sale deeds have been executed in the said Tehsil. The document dated 1st December 2023, taken on record today and marked “X” for identification, indicates the numerous occasions on which such forged documents purportedly issued by the office of the Tehsildar have been used in executing registered documents and this information has been forwarded by the office of the Tehsildar to the Office of the Sub-registrar Pune.

15. The complaint dated 18th February 2024, submitted by the applicant refers to the role of an advocate, allegedly recommended

by the Naidu Brothers who assured the applicant that the sale deed could be executed as the order of non-agricultural permission pertaining to the subject land had been obtained from the Tehsildar.

16. Although in the transaction in question the applicant is certainly the beneficiary of the registered sale deed, there appears to be more than meets the eye at this stage. The applicant is ready to cooperate with the investigation, therefore this Court is inclined to grant interim relief in this application.

17. In view of the above, following interim order is passed:

(a) Till the next date of listing, in the event the applicant is arrested in connection with C.R.No. 332 of 2024 registered at Chatusringi Police Station, Pune, he shall be released on bail, on furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand Only) with one or two sureties in the like amount.

(b) The applicant shall remain present before the Investigating Officer on 12th July 2024 and 15th July 2024 between 10.00 a.m. and 12.00 noon and thereafter as and when called by the Investigating Officer.

(c) The applicant shall cooperate with the investigation and provide the documents demanded by the Investigating Officer.

(d) The applicant shall not tamper with the evidence in any manner. He shall not influence the informant, witnesses or any other persons concerned with the case.

18. Needless to say, in case of violation of any of the aforesaid conditions, the interim order granted to the applicant shall be liable to be cancelled.

19. The Naidu brothers are at liberty to file an appropriate intervention application along with documents in order to assist this Court.

20. List the anticipatory bail application for further consideration on **2nd August 2024**.

(MANISH PITALE, J.)