

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1966 OF 2024

Bhagwat Vishwanath Chaudhari

...Applicant

Versus

The State of Maharashtra

...Respondent

SHRIKANT
SHRINIVAS
MALANI

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- Mr. Ashutosh Kulkarni a/w Ms. Vrushali Maindad and Ms. Shaheen Kapadia, for Applicant.
- Mr. Tanveer Khan, APP for the State.
- Mr. Sachin Thombare, for the Original Complainant.
- D.A. Zol, PSI, Hinjwadi Police Station.

CORAM : MANISH PITALE, J.

DATE : 02nd August, 2024.

P. C. :

1. Heard, Mr. Ashutosh Kulkarni, learned counsel for the applicant, Mr. Tanveer Khan, learned APP for the State as well as Mr. Sachin Tombare, learned counsel having instructions to appear on behalf of the first informant.

2. In the present case, one of the co-accused persons i.e. Vaishali Jayprakash Pawar was granted anticipatory bail by this Court by an order dated 16th July, 2024 in Anticipatory Bail Application No.1861 of 2024.

3. Although, the said order was referred to by the learned counsel for the applicant, but this Court finds substance in the contention raised by learned APP that in the facts of the present case, the applicant cannot claim parity with the said co-accused person, for the reason that one of the factors

that impressed this Court was that the co-accused was not even a partner in the partnership firm when the subject transaction was undertaken.

4. The applicant is one of the accused persons in First Information Report No.0478 of 2024 dated 12th April, 2024, registered at Police Station Hinjwadi, District Pimpri-Chinchwad, for the offences under Sections 465, 467, 468, 469, 471 and 420 read with Section 34 of the Indian Penal Code (IPC).

5. The informant claims that the accused persons have committed the aforesaid offences on the basis that when he went to apply for occupancy certificate after completion of construction undertaken on a particular land, he came to know that the land itself had been sold to certain third parties about which he was unaware. It is the case of the informant that the development rights pertaining to the said land were given by the original owners i.e. Mrunalkant Datta and Ashishkumar Kar (hereinafter referred to as the vendors) to one Mr. Mane and immediately thereafter the said Mr. Mane gave the development rights in favour of the informant, way back in the year 2006. It is further alleged that the manner in which consideration was exchanged for the transaction that took place in the year 2018, whereby the land was ostensibly sold to the partnership firm of which the applicant is a partner, gave raise to suspicion. It is further claimed by the informant that the subsequent

sale in favour of the co-accused persons in the year 2023, also reveals the involvement of all the accused persons in the aforementioned offences.

6. The learned counsel for the applicant submits that the transaction that was executed by the vendors in favour of the aforesaid firm, of which the applicant is a partner, in the year 2018 by way of registered document for which valuable consideration was given. Subsequently, the firm sold the land to subsequent purchasers i.e. co-accused Nos.4 and 5. It is submitted that the applicant had no reason to believe that the informant had any rights in the said land and therefore, the ingredients of the alleged offences are not made out. Only mere allegations are made about forgery and fabrication, for which there is no material with the Investigating Authority. The applicant is ready to cooperate with the investigation.

7. On the other hand, learned APP submits that statement of the one of the vendors could be recorded but he did not divulge anything about the transaction with the firm, of which the applicant is a partner and that the other vendor could not be traced. It is submitted that specific allegations pertaining to forgery and fabrication have been made and since the investigation is still on going, no indulgence may be shown to the applicant.

8. The learned counsel having instructions to appear for the first informant supported the submissions made by the learned APP and sought to

argue that the document executed in favour of the aforesaid firm in the year 2018, is based on impersonation of the aforesaid vendors.

9. This Court has considered the submissions in the light of the material made available to this Court. A perusal of the statement of the informant, which led to registration of the FIR, shows that there is not even a hint of an allegation of impersonation of the vendors when the document was executed in favour of the aforesaid firm in the year 2018. Allegations have indeed been made about forgery and fabrication of certain documents when the registered documents were executed in the year 2018 and 2023.

10. This Court is of the opinion that the nature of allegations made by the informant would indicate that if at all the allegations are to be believed the involvement of the vendors, also comes to the fore. Admittedly the vendors are not made accused persons. There is no specific allegation about impersonation of the vendors when the document was executed in the year 2018. The allegations pertaining to the under valuation of the property are not specifically made in the statement of the informant, which led to registration of the FIR.

11. In such a situation, this Court is of the opinion that the learned APP would have to go through the investigation papers in detail to assist this Court on the next date for comprehensively understanding the alleged role of

the applicant in the present case. In the meanwhile, the applicant has made out a case for granting interim relief.

12. In view of the above, there shall be interim order as follows :

- (A) Till the next date of listing, in the event the applicant is arrested in connection with FIR No.0478 of 2024 dated 12th April, 2024, registered at Police Station Hinjwadi, District Pimpri-Chinchwad, for the offences under Sections 465, 467, 468, 469, 471 and 420 read with Section 34 of the Indian Penal Code , he shall be released on bail, on furnishing PR Bond of ₹ 50,000/- and one or two sureties in the like amount.
- (B) The applicant shall remain present before the Investigating Officer on 05th August, 2024 between 10:00 a.m. and 12:00 noon and thereafter as and when called by the Investigating Officer.
- (C) 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.

6. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

7. List the application for further consideration on **02nd September, 2024, “High on Board.”**

(MANISH PITALE, J.)