IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2078 OF 2024

Aneel Savajibhai Vadgama … Applicant
Vs.
State of Maharashtra … Respondent

WITH
INTERIM APPLICATION NO.2986 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.2078 OF 2024

Mr. Sudeep Pasbola, Senior Advocate with Mr. Subhash Hulyalkar, Ms. Anima Mishra and Mr. Jatin Chawda for Applicant.
Ms. Rutuja A. Ambekar, APP for Respondent-State.
Mr. Prabhakar M. Jadhav for Complainant / Applicant in IA/2986/2024.

CORAM : MANISH PITALE, J.
DATE : AUGUST 14, 2024

P.C. :

. Heard Mr. Pasbola, learned senior counsel for the applicant, Ms.Ambekar, learned APP for the respondent-State, as also Mr. Jadhav, learned counsel having instructions to appear on behalf of the first informant.

2. The applicant is apprehending arrest in connection with FIR No.0176 of 2024 dated 30.05.2024 registered with Lonavala Police Station, District - Pune Rural, for offences under Sections 406, 420, 465, 468 and 471 of the Indian Penal Code, 1860 (IPC).

3. The informant approached the police on 30.05.2024 with a grievance that the applicant had duped the informant by relying upon a forged power of attorney while entering into memorandum of understanding (MoU) dated 20.02.2016. An amount of Rs.2 crores was

taken from the informant, on the promise of executing a registered sale deed in respect of the land, which was the subject matter of the said MoU. According to the informant, in July 2021 when he inspected the revenue records, he found that certain registered documents were already executed by the applicant in respect of the land, thereby demonstrating that the informant had been duped.

4. The learned senior counsel appearing for the applicant submitted that this is a typical case of an attempt to give the colour of criminality to a dispute, which is essentially civil in nature. It is submitted that when the MoU dated 20.02.2016 was executed, the informant was very well aware about the background of the land in question. The vendor of the applicant had faced an allegation of the power of attorney executed in his favour being forged. The criminal proceeding initiated in that context had resulted in the acquittal of the vendor and there is no order of any competent Court setting aside the said power of attorney. On the basis of such a document, the land in question came to the applicant and thereupon, the said MoU was executed. It was brought to the notice of this Court that even possession of the land in question was handed over to the informant when the MoU was executed.

5. Subsequently, by an agreement dated 01.07.2021, copy of which is tendered and taken on record and marked ‘X’, the informant allegedly surrendered the possession of the said land back to the applicant on the understanding that the applicant would not be liable to pay interest on the said amount of Rs.2 crores received under the MoU from the informant and in turn, the applicant would not make any claim towards rents / charges earned by the informant while being in possession of the land in question between the years 2016 and 2021. It was allegedly agreed between the parties that after the applicant was able to sell the said land to a new purchaser, he would return the amount of Rs.2 crores

to the informant. It is submitted that undoubtedly, the said amount of Rs.2 crores is yet to be paid. It is also submitted that instead of returning the said amount, the applicant had allegedly offered to the informant other pieces of land but the efforts did not materialize. In this backdrop, it is submitted that the applicant being ready to co-operate with the investigation, this Court may grant relief to the applicant.

6. On the other hand, Ms. Ambekar, learned APP submits that in the present case, the applicant has enjoyed the amount of Rs.2 crores under the MoU from the year 2016. The allegations in the statement of the informant clearly make out the ingredients of the offences registered against the applicant. It is too early at this stage itself to reach a conclusion that a civil dispute is being given the colour of criminality. It is submitted that none of the documents are registered and therefore, reliance placed on the purported agreement dated 01.07.2021 on behalf of the applicant cannot be taken into consideration. It is submitted that if the applicant is given protection, there is no chance of the applicant honouring his commitment of returning the amount to the informant, despite the fact that he has already indicated before this Court about his liability to repay such an amount.

7. Mr. Jadhav, learned counsel appearing for the first informant submits that the statement of the informant is enough to make out a strong *prima facie* case against the applicant for the offences registered against him. It is submitted that this Court may record an undertaking on behalf of the applicant that he would return the amount of Rs.2 crores in a time bound manner as a condition for granting protection, if at all, to the applicant.

8. This Court has considered the rival submissions. A perusal of the statement of the informant, leading to registration of the FIR shows that even according to the informant, in terms of MoU dated 20.02.2016

concerning the land in question, amount of Rs.2 crores was paid to the applicant with the intention of eventually executing a registered sale deed in respect of the said land. It is significant to note that in the statement itself, the informant has stated that in July 2021, when he inspected the revenue records, he allegedly became aware for the first time about registered documents being executed by the applicant in favour of third persons in respect of the land, without honouring the commitment made to the informant. If that be so, at this stage, there does not appear to be any explanation as to why the informant waited till 30.05.2024 to approach the police for registration of the FIR. This was a good three years after the informant, for the first time, became aware about the said activities of the applicant.

9. In any case, the contents of the statement of the informant may indicate cause of action for the informant to seek specific performance of the MoU dated 20.02.2016, but that would also support the submission made on behalf of the applicant that this is a civil dispute, unnecessarily being given the colour of criminality.

10. Apart from this, other than bare allegation of the informant about the alleged forgery of the aforesaid power of attorney, there is no material presently available to support the same. It is specifically asserted on behalf of the applicant that the said PoA was never set aside by any competent court and there was no question of doubting the basis of the applicant executing the said MoU with the informant. Although at this stage, looking at a document tendered by the applicant may not be appropriate, but a perusal of the said alleged agreement dated 01.07.2021, taken on record, indicates the signatures of the rival parties on a document which shows the arrangement agreed between the parties in the year 2021 subsequent to execution of the MoU of the year 2016. Therefore, this Court is of the opinion that a strong *prima facie* case is

made out by the applicant to claim that the dispute between the parties is indeed of civil nature and that, the colour of criminality is being given on the part of the informant to pressurize the applicant to return the aforesaid amount of Rs.2 crores.

11. At this stage, the learned APP informs this Court that there are a large number of antecedents against the applicant for various offences, including bodily offences and similar offences of cheating, forgery, etc.

12. In that regard, the learned senior counsel for the applicant has referred to the four antecedents, specifically taken note of by the Sessions Court, while rejecting his application for anticipatory bail. On specific instructions, the learned senior counsel submits that as regards the said four criminal antecedents, either the proceedings are terminated or the applicant is discharged on acquittal and in one case, a quashing petition is pending before this Court. In any case, existence of criminal antecedents itself cannot be a ground to reject anticipatory bail, so long as the applicant has made out a strong *prima facie* case with regard to the allegations made by the informant in the present case.

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

A. In the event the applicant is arrested in connection with FIR No.0176 of 2024 dated 30.05.2024 registered with Lonavala Police Station, District - Pune Rural, he shall be released on bail on furnishing PR Bond of Rs.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 between 10:00 a.m. and 12 noon on 17.08.2024 and thereafter, as and when called by the investigating officer. He shall co-operate with the investigation;

C. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

14. In case any of the aforesaid conditions are violated, the present order would be liable to be cancelled. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

15. The application stands disposed of.

16. In view of the disposal of this application, nothing survives in the interim application and the same is disposed of accordingly.

(MANISH PITALE, J.)

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