

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

ANTICIPATORY BAIL APPLICATION NO. 2134 OF 2024

Vaibhav Eknath Markad	...	Applicant
Versus		
The State of Maharashtra	...	Respondent

Mr. Sumant R. Deshpande a/w Mr. Sakharam Kadam for the Applicant.

Mr. Sagar R. Agarkar, APP for Respondent-State.

Mr. Vishnu Deshmukh, PSI, Loni Kalbhor Police Station, Pune City.

**CORAM: MANISH PITALE, J.
DATE : 20th AUGUST 2024**

P.C. :

. Heard learned counsel for the applicant and learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0307 of 2024 dated 6th June 2024 registered at Loni Kalbhor Police Station, Dist. Pune, for offences under Sections 420, 427, 467, 468, 471 and 447 read with 34 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case has alleged that the applicant and the co-accused person are liable to be prosecuted for the aforesaid offences, for the reason that they have conspired to dupe the informant and the partnership firm, of which the

informant is a partner. It is alleged that the applicant having retired from the partnership firm, has illegally made efforts to deal with a property belonging to the partnership firm and in the process, has executed power of attorney in favour of the co-accused person, for which valuable consideration has been exchanged, which could not have been done in the light of the fact that the applicant is no longer a partner in the partnership firm.

4. The learned counsel for the applicant submits that in the present case, ingredients of the offences under Sections 420 and 467 of the IPC are not made out. There cannot be an allegation that the power of attorney is a forged document and there is no question of the applicant having cheated the informant. At worst, such an allegation could have been raised by the co-accused person and certainly not by the informant, in the facts and circumstances of the present case. It is submitted that therefore, since the dispute is essentially of civil nature, this Court may allow the present application.

5. On the other hand, the learned APP has relied upon documents that have come to light during the course of investigation. It is submitted that not only the applicant has unauthorizedly and illegally executed the power of attorney in favour of the co-accused person, but he also executed a *visar pavati* with the co-accused person in respect of the land in question, in the context of which valuable consideration is also exchanged. It is submitted that the ingredients of the offences in

question are *prima facie* made out and therefore, the application may be dismissed.

6. This Court has perused the material on record, including the investigation papers and it is found that the present application deserves to be dismissed, for the following reasons :

- (a) The sale deed pertaining to the land in question was executed by the applicant and the informant, while purchasing the said land, specifically on behalf of the partnership firm. The status on the basis of which the applicant signed the document was that of being a partner of the firm.
- (b) It is an admitted position that the applicant resigned from the partnership firm when it was reconstituted on 23rd April 2017. Hence, his status as partner of the firm no longer continued.
- (c) The applicant *prima facie* had no authority to deal with the land, which was subject matter of the sale deed executed in favour of the partnership firm. Yet in May 2021, the applicant executed the *visar pavati* in favour of the co-accused person, for which specific amount was received by the applicant.
- (d) It is also a matter of record that the applicant executed a power of attorney in favour of the co-accused person in

respect of the very same land, in exchange for consideration. Having resigned from the partnership firm, the applicant had no authority to execute such documents and receive amounts, which were rightly due to the partnership firm.

- (e) There is no substance in the contention raised on behalf of the applicant that since his name continues to be on the sale deed executed in favour of the partnership firm, he is entitled to deal with the property.
 - (f) It can also not be said that in the facts and circumstances of the present case, the dispute is purely civil in nature. The ingredients of the offences in question are *prima facie* made out.
7. For the aforesaid reasons, the application is dismissed.

MANISH PITALE, J.