

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2316 OF 2024**

1. Vinod Ganpat Gaikwad,		
2. Gaurav Suresh Gaikwad	...	Applicants
vs.		
The State of Maharashtra	...	Respondent

Mr. Ganesh M. Savagave for applicants.

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

Mr. Prakash A. Pawar, API, Panvel City Police Station, District Navi Mumbai.

**CORAM : MANISH PITALE, J.
DATE : 04th SEPTEMBER, 2024**

P.C. :

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

2. The applicants are apprehending arrest in connection with FIR No.0281 of 2024 dated 22.04.2024 registered at Panvel City Police Station, District Navi Mumbai for offences under Sections 406, 420 and 506 read with Section 34 of the Indian Penal Code, 1860. The informant has caused the FIR to be registered against 5 accused persons of whom the applicants are the two accused persons.

3. The statement of the informant, leading to registration of FIR shows that the informant has given chronology of events from the year 2007 onwards, with regard to the manner in which certain plots and real estate was to be developed. The informant has stated in an elaborate manner as to the steps taken by him and others, including the applicants, with the intention of carrying out the development of plots and real estate. Reference is made to certain amounts invested by the informant and also execution of

tripartite agreement and other such documents. It is alleged that the accused persons, including the applicants, took certain steps in a clandestine manner and behind the back of the informant, thereby cheating him and committing criminal breach of trust.

4. The learned counsel for the applicants submitted that the tenor of statement, leading to registration of FIR, reveals certain grievances of the informant, which can be categorized as civil disputes. The informant is deliberately trying to give colour of criminality to the grievances, so as to pressurize the applicants into submission. It is submitted that the applicants are ready to co-operate with the investigation and they undertake to produce all documents in their possession, as may be demanded by the investigating officer.

5. On the other hand, the learned APP points out that the other 3 accused persons were arrested. It is submitted that the ingredients of the offences are clearly made out from the statement of the informant. Attention of this Court is invited to the statement of the co-accused Suresh Gaikwad to indicate that the said accused person, in connivance with the applicants, as also co-accused Hanif Khot, duped the informant and took steps in a clandestine manner behind the back of the informant. Reference is also made to the tripartite agreement and the manner in which the clauses thereof were blatantly violated by the applicants.

6. This Court has carefully perused the statement of informant, leading to registration of FIR. It describes the chronology of events starting from the year 2007, wherein the informant himself has stated that he is working in the real estate sector. According to the said statement, the informant involved himself in the business of development of plots and properties

alongwith the accused persons. Reference is made to the tripartite agreement and other such documents executed between the parties, with the intention of developing the plots and earning profits.

7. This Court is of the opinion that the nature of grievances with which the informant has approached the police, *prima facie* appears to have genesis in civil disputes between the parties. If there is a grievance regarding violation of clauses of tripartite agreement and other such understanding between the parties, the informant would have his remedies before the appropriate Court.

8. The statement of the co-accused Suresh Gaikwad upon which reliance is sought to be placed, cannot be the sole ground for denying relief to the applicants.

9. The nature of allegations made in the present case, clearly indicates that the investigation involves documentary material. There is no allegation of forgery and fabrication against the accused persons in the present case. The applicants have already indicated that they would produce all the documents in their possession, as may be demanded by the investigating officer and they shall co-operate with the investigation. In such a situation, this Court is unable to agree with the learned APP that physical custody of the applicants may be required.

10. This Court has *prima facie* come to the conclusion that civil disputes are sought to be given the colour of criminality at the behest of the informant. Hence, this Court is inclined to allow the present application.

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

(i) In the event the applicants are arrested in connection with FIR No.0281

of 2024 dated 22.04.2024 registered at Panvel City Police Station, District Navi Mumbai, they shall be released on bail on furnishing PR Bonds of ₹ 50,000/- each with one or two sureties in the like amount to the satisfaction of the trial Court;

- (ii) the applicants shall remain present before the Investigating Officer on 09.09.2024 and 10.09.2024 between 10:00 a.m. and 12:00 noon and thereafter, as and when the Investigating Officer calls upon them to remain present;
- (iii) the applicants shall not tamper with the evidence of the prosecution in any manner. They shall not influence the informant, witnesses and other persons concerned with the case;
- (iv) The applicants shall co-operate with the investigation, including producing all the documents in their possession, as may be demanded by the investigating officer. These documents could include documents pertaining to third party rights that may have been created, as alleged by the informant. They shall also co-operate in the proceedings before the trial court.

12. In the event, the applicants violate any of the conditions specified in this order, it shall be liable to be cancelled.

13. It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

14. The application stands disposed of.

(MANISH PITALE, J)