

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2338 OF 2024

1. Prakash Bachchu Dhodi
2. Harshal Prakash Dhodi ... Applicants
Vs.
State of Maharashtra ... Respondent
WITH
INTERIM APPLICATION NO.3471 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.2338 OF 2024

Mr. K. H. Holambe Patil a/w. K. K. Holambe Patil i/b. Mr. Nitin S. Murkute for Applicants.

Ms. Megha Bajoria, APP for Respondent-State.

Ms. Aishwarya Amrut Adhikari for Intervenor in IA/3471/2024.

CORAM : MANISH PITALE, J.
DATE : SEPTEMBER 05, 2024

P.C. :

. Heard Mr. Holambe Patil, learned counsel for the applicants, Ms.Bajoria, learned APP for the respondent-State and Ms.Adhikari, learned counsel appearing for the intervenor / informant.

2. The applicants are apprehending arrest in connection with FIR No.0203 of 2024 dated 08.07.2024 registered with Dahanu Police Station, District - Palghar, for offences under Sections 420, 504 and 506 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The informant, in her statement, has alleged that the applicants have cheated her by siphoning off huge portion of compensation amount, that was due to her for acquisition of a piece of a land belonging to her. It is alleged that the applicants made her open a bank account as the compensation amount was to be deposited in such a bank account.

The ATM card, cheque-book, etc. were all retained by the applicants and the compensation amount was thereafter illegally withdrawn. In fact, it is alleged that the applicants taught the informant as to how to put her signatures on the cheques and by using such tactics, huge amount of Rs.82,03,320/- from the compensation amount deposited in the account of the informant was siphoned off by the applicants.

4. The learned counsel for the applicants submits that the informant has indulged in suppression, while causing the FIR to be registered. It is submitted that the documents placed on record with the present application would show that if at all, there is a dispute, it could be said to be of a civil nature, which is deliberately being given the colour of criminality. Reference is made to a number of documents on record in support of the said submission.

5. The learned APP submits that even if the said documents are to be taken into consideration, the statement of the informant is absolutely clear and it indeed makes out the ingredients of the serious offences registered against the applicants.

6. The learned counsel for the informant supports the submissions made by the learned APP and further submits that no indulgence be shown to the applicants, who have duped the informant - a woman aged about 75 years old.

7. This Court is inclined to keep the present application pending with specific directions to the applicants to appear before the investigating officer and co-operate with the investigation. In the meanwhile, this Court is also inclined to grant interim relief in favour of the applicants for the following reasons:-

- a. The documents on record show that while initially, agreement and power of attorney were executed by the

informant, pertaining to three pieces of land in favour of the applicants, subsequently in the year 2020, a further piece of land was added and a consequent power of attorney was also executed, including the aforesaid additional fourth piece of land. In fact, in these subsequent documents executed in the year 2020, it was specifically recorded that the land bearing Survey No.111/1 was inadvertently left out when the earlier documents were executed in the year 2014. The informant is a party to all these documents;

- b. It is pertinent to note that the allegations in the present FIR concern this fourth piece of land added subsequently by the said documents executed in September 2020. In December 2020, the informant and her sons executed an affidavit stating specifically that they were aware about the aforesaid fourth piece of land having been acquired and the compensation determined for the same, further stating that they had no objection to the compensation amount being taken by the applicants as the aforementioned agreements had been executed for sale of the said land and the other three pieces of land in favour of the applicants;
- c. The documents placed on record show that the land acquisition authorities determined and paid compensation to the applicants for two structures existing on the aforesaid fourth piece of land, which was the subject matter of the document subsequently executed in the year 2020. The said documents *prima facie* indicate that the applicants had acquired possession of the said fourth piece of land and they were utilizing the said land. The aforementioned affidavit of December 2020 is a relevant document as it *prima facie* shows knowledge of the informant about the fact that the

said piece of land was acquired and compensation was due and payable. This aspect is not divulged in the statement leading to the registration of the FIR, *prima facie* indicating a case in favour of the applicants for granting interim relief;

- d. The learned counsel for the applicants, on instructions, has made a specific statement that the applicants shall appear before the investigating officer and co-operate with the investigation and that they shall produce all original documents in support of their stand as revealed in the present application;

8. For the aforesaid reasons, there shall be interim order in the following terms:-

- A. Till the next date, in the event the applicants are arrested in connection with FIR No.0203 of 2024 dated 08.07.2024 registered with Dahanu Police Station, District - Palghar, they shall be released on bail on furnishing PR Bond of Rs.25,000/- each with one or two sureties in the like amount;
- B. The applicants shall appear before the investigating officer on 09.09.2024 between 10:00 a.m. and 12 noon and thereafter as and when called by the investigating officer;
- C. The applicants shall co-operate with the investigation and they shall produce all original documents in support of the submissions made in this application, as also orally made before this Court today;
- D. The applicants shall not influence the informant, witnesses or any person concerned with the case and they shall not tamper with the evidence.

9. Needless to say, violation of any of the aforesaid conditions may result in this order being recalled.
10. List the application for further consideration on 03.10.2024, to be included in the supplementary list.

(MANISH PITALE, J.)

Minal Parab