

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

ANTICIPATORY BAIL APPLICATION NO. 2636 OF 2024

Hanumant Anandrao Jadhav

...Applicant

Versus

The State of Maharashtra

...Respondent

- Mr. Niranjan Mundargi a/w Mr. Bhargav S. Pataskar i/b Mr. Ranjeet M. Pawar, for Applicant.
- Mr. R.M. Pethe, APP for Respondent.
- Mr. Santosh Jadhav, API, Wadgaon Maval Police Station.

CORAM : MANISH PITALE, J.

DATE : 30th SEPTEMBER, 2024.

P. C. :

1. Heard, Mr. Mundargi, learned counsel for the applicant and Mr. Pethe, learned APP for respondent – State.

2. The applicant is a Range Forest Officer seeking protection, as he apprehends arrest in connection with First Information Report No.0381 of 2024, dated 16.08.2024, registered at Police Station Wadgaon Maval, District Pune, for offences under Sections 471, 468, 466, 465, 420, 167 and 166 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The informant in the present case is an Assistant Conservator of Forests and in his statement, leading to registration of the FIR, it is stated that when the said informant was undertaking routine office work in April, 2024, it came to his attention that a sale deed dated 11.07.2023 bearing No.6034 of

2023 had been executed in respect of a private forest land, which could not have been executed on the basis of a No Objection Certificate (NOC) issued by the office of the Range Forest Officer. It is stated that when the informant called upon the Range Forest Officer i.e. the applicant to clarify as to how such an NOC was issued, the applicant claimed that he had not signed the NOC and that when the said fact had come to his attention he had sent a communication dated 04.12.2023 to the office of the Sub Registrar seeking cancellation of the said sale deed. Thereupon, the informant sent a written complaint dated 28.06.2024 to the Police Inspector of the aforesaid Police Station, referring to the said sequence of events as also the clarification given by the applicant and on that basis, prayed for initiation of appropriate proceedings against the persons, who were parties to the said sale deed i.e. the sellers as well as the purchasers under the said sale deed.

4. It appears that during the course of enquiry, certain facts came to the fore, which pointed towards the involvement of the applicant, one of which was his reluctance to initiate criminal proceedings in the matter. In fact, in the complaint itself dated 28.06.2024, addressed by the informant to the Police Inspector, it was noted that the applicant as the Range Forest Officer had been asked to initiate criminal proceedings in the matter, but till the date of submitting the said complaint, the applicant had failed to take necessary steps in the matter.

5. In this backdrop, the learned counsel for the applicant submits that since the said NOC was never issued under his signature and he had taken the stand the moment the issue was raised by his superior, no criminality can be alleged against him. It was submitted that on 04.12.2023 itself, the applicant had sent the said communication to the Sub Registrar seeking cancellation of the sale deed, as appropriate permission from the Forest Department was not obtained in respect of the said sale deed. Reliance was also placed on a letter dated 15.12.2023, said to have been addressed to the Tehsildar for cancellation of the Mutation Entry based on the aforesaid sale deed. It was submitted that since such remedial measures were already taken by the applicant, merely failure on his part to initiate the criminal process, cannot be a ground to attribute any criminality in the present case on the applicant. It was emphasized that instead of proceeding against the beneficiaries of the aforesaid sale deed i.e. the persons who were parties to such a document, the Investigating authority wrongly proceeded against the applicant. It was submitted that in such circumstances, when the applicant is ready to cooperate with the investigation, the instant application may be allowed.

6. On the other hand, learned APP relied upon investigation papers. He specifically relied upon statements of certain witnesses to indicate that this

is not the sole instance when the applicant has issued such NOC for execution of sale deed. It is submitted that being the Range Forest Officer, the applicant was all along aware that such NOC could never be issued by his office in terms of the relevant provisions of law and yet, he proceeded to issue such NOC for extraneous reasons. Reliance is also placed on statements of certain witnesses, indicating that certain cash amount was given to the applicant through a middleman active in the office of the applicant. It was further submitted that during the course of investigation, it came to light that neither the letter dated 04.12.2023 was received by the office of the Sub Registrar nor was the letter dated 15.12.2023 received by the office of the Tehsildar., thereby showing that the applicant was relying upon concocted documents, only to cover up his misdeeds. In that light, the delay or complete reluctance on the part of the applicant in initiating the criminal process indicates his involvement in the present case.

7. This Court has considered the documents on record in the light of the submissions made on behalf of the rival parties. The applicant claims that he had already taken remedial actions in the present case in the context of the aforesaid NOC, when he sent communication dated 04.12.2023 to the Sub Registrar for cancellation of the said sale deed and also the communication dated 15.12.2023 sent to the Tehsildar's office for cancellation of Mutation Entry based on the aforesaid sale deed. In fact, reliance is also

placed on a recent order dated 04.08.2024, passed by the Sub Divisional Officer in an Appeal, with reference to the Mutation Entry pertaining to the said sale deed, wherein reliance is placed on the aforementioned documents.

8. But, it is crucial to note that during the course of investigation, the said offices i.e. the office of the Sub Registrar and the office of the Tehsildar, have specifically given written communications to inform that no such letter dated 04.12.2023 purportedly addressed to the office of the Sub Registrar and letter dated 15.12.2023 purportedly addressed to office of the Tehsildar were ever received in the respective offices.

9. This aspect of the matter certainly creates suspicion about the claims made by the applicant. It is significant to note that after the informant became aware about the subject sale deed being issued on the basis of NOC, in April, 2024, clarification was sought from the applicant and he was also directed to take appropriate steps for registration of FIR in the matter. But, the applicant relied upon the said communication dated 04.12.2023 purportedly sent to the office of the Sub Registrar to give an impression to his superior i.e. the informant herein that he had taken remedial action in the matter for cancellation of the sale deed. It is also a matter of record that despite specific directions issued by the informant to the applicant to initiate the criminal process, no such steps was taken by the applicant.

10. The aforesaid conduct of the applicant *prima facie* indicates that he has placed reliance on communications that were never received by the respective offices, thereby raising suspicion about the very issuance of such communications. It is also to be noted that the statements of witnesses recorded during the course of investigation, indicate that this is not the sole instance when the office of the applicant has issued such an NOC and that there are other such transactions where NOC were issued. Although the signatures on such NOCs, even on bare perusal, indicate that they do not appear to be the signatures of the applicant, but, the allegation against the applicant is that he is the person, who caused such NOCs to be issued and he has no explanation as to how the seals and rubber stamps of his office were used for issuance of such NOCs. The transactions concerning such NOCs are said to be running into about ₹ 5 Crores.

11. There is also a statement of a witness recorded during the course of investigation, that specific cash amount was given to the applicant through a middleman in his office for facilitating issuance of such an NOC.

12. The aforesaid material, at this stage of investigation, which is obviously at a preliminary stage is enough to create *prima facie* case against the applicant. The contention of the applicant that the fact that the persons who were parties to the sale deed have not been made accused in the present case

should inure his benefit cannot be accepted at this stage. The Investigating Authority during the course of investigation, depending on the material that comes on record will certainly proceed in an appropriate manner, but that in itself cannot be a factor inuring to the benefit of the applicant.

13. This Court is of the opinion that in the face of such material on record and the total reluctance on the part of the applicant to initiate criminal process despite specific direction by his superior i.e. the informant herein, no indulgence can be shown to the applicant.

14. The application is dismissed.

(MANISH PITALE, J.)