

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

ANTICIPATORY BAIL APPLICATION NO.3477 OF 2024.

Amit Gupta and Anr.

...Applicants

Vs

The State of Maharashtra

...Respondent

Mr. Ganesh Gupta a/w. Mr. Sahil Ghorpade, Mr. Surya Gupta, Ms. Priyanka Rathod i/b G. G. Legal Associates for the Applicant.

Mr. Mayur S. Sonavane, APP for the Respondent-State.

Mr. Satyam Harshad Nimbalkar i/b Mr. Abhishek Ulhas Arote for the Intervenor.

Mr. Vaibhav Gurav, API, Kalewadi Police Station, Pimpri Chinchwad, District-Pune.

CORAM: MANISH PITALE, J.

DATE : 20th DECEMBER, 2024.

P. C. :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.
2. The applicant is apprehending arrest in connection with FIR No.834 of 2020 dated 2/10/2022 registered with Wakad Police Station, for offence punishable under Sections 120-B, 420, 468 r/w. 34 of IPC.
3. The Informant, in the statement leading to registration of FIR, stated that the applicant in the present case executed sale deed dated 22/2/2018 in favour of the brother of the informant by suppressing vital facts, thereby demonstrating dishonest intention from the

inception.

4. It is the case of the informant that after the registered sale deed was executed, it came to light that the subject property was already under litigation and that there was an FIR registered by the Central Bureau of Investigation (for short, "CBI") in the present matter. It was found that No Objection Certificate (NOC) was obtained from the concerned Society where the property is located on the basis of indemnity bond submitted by applicant No.2 and all these facts were suppressed when the sale deed was executed.

5. Learned counsel for the applicant submits that the applicants were completely unaware about the pendency of the criminal case and what could be said to be an encumbrance on their property and therefore, it cannot be said that they had dishonest intention from the inception when the registered sale deed dated 22/2/2018 was executed. It is submitted that the applicants are ready to cooperate with the aggrieved parties to find an amicable solution and that since the ingredients of the offence are not made out, this Court may consider granting this application for anticipatory bail.

6. The learned APP has opposed the application. This Court has perused the documents on record.

7. The FIR in the present case was registered on 2/10/2022, only after an order was passed by the competent Magistrate upon an

application being filed by the informant under Section 156 (3) of Cr.P.C. The FIR was registered more than 2 years and 2 months ago and yet the applicants have remained absconding and it appears that they have not co-operated with the investigation.

8. ABA filed on their behalf in the year 2023 was eventually dismissed on 30/8/2024. It is matter of record that there was no interim relief operating in favour of the applicants during the pendency of the said application.

9. Investigation is still incomplete because of the aforesaid situation and chargesheet is yet to be filed.

10. This Court is of the opinion that the documents on record, particularly FIR dated 17/2/2016 filed by the CBI sufficiently indicates that the ignorance being shown by the applicants about encumbrance and pendency of criminal case in respect of the property, is not borne out by documents on record.

11. It is a matter of record that the brother of applicant No.2 gave a statement to CBI on 18/11/2016 in respect of the aforementioned FIR filed by the CBI as far back as on 17/12/2016, in respect of the very same property and yet the applicants claim to be unaware about such developments.

12. The documents on record *prima facie* indicate that the applicants, despite having knowledge of such encumbrances and the

pending criminal case went ahead to execute the aforesaid registered Sale Deed dated 22/2/2016 and accepted valuable consideration from the brother of the informant. It is to be noted that the indemnity bond given by applicant No.2 to the society resulted in issuance of NOC and execution of Sale Deed on that basis. The Indemnity bond and its contents came to light later when the informant pursued the matter.

13. These factors do indicate a strong *prima facie* case against the applicant about having dishonest intention from the inception while and executing the registered Sale Deed dated 22/2/2018, whereby the aggrieved persons parted with valuable consideration on an impression that the property was unencumbered. No case is made out for granting anticipatory bail.

14. The Application is dismissed.

[MANISH PITALE, J.]