

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3199 OF 2024

Satyajit Nitin Gavand ... Applicant
Vs.
State of Maharashtra ... Respondent

WITH
INTERIM APPLICATION NO.4929 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO.3199 OF 2024

Mr. Niranjan Mundargi i/b. Mr. Omneel A. Jadhav for Applicant.
Ms. Megha S. Bajoria, APP for Respondent-State.
Mr. Bimal Das, Party in Person in IA/4929/2024.
Mr. Sachin Madhavrao Nikam, PSI, Pali Police Station.

CORAM : MANISH PITALE, J.
DATE : DECEMBER 02, 2024

P.C. :

. Heard Mr. Mundargi, learned counsel for the applicant and Ms.Bajoria, learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No.0062 of 2020 dated 09.10.2020 registered with Pali Police Station, District - Raigad, for offences under Sections 405, 406, 420, 463, 467 and 468 of the Indian Penal Code, 1860 (IPC).

3. The informant, in the present case, in his statement made a grievance that co-accused person i.e. the father of the present applicant executed a registered document dated 07.05.2012 in favour of the first informant purportedly selling land at Survey No.25/1 admeasuring about 73 *Gunthas* to the first informant.

4. It later came to light that the piece of land handed over to the first informant purporting to be part of Survey No.25/1 was actually situated in different survey numbers. It was also realized that the piece of land handed over under the said document to the first informant admeasured less than 73 *Gunthas*. This is the basis on which the first informant caused the FIR to be registered. Only the father of the applicant i.e. Nitin Gavand was shown as the accused person.

5. Investigation was undertaken and charge-sheet was filed on 11.05.2021 in which only the said Nitin Gavand was arraigned as an accused person. It appears that thereafter, further investigation was undertaken and a subsequent charge-sheet dated 23.09.2022 was filed, wherein the said Nitin Gavand, the applicant and his brother were shown as accused persons.

6. The learned counsel for the applicant submits that there appears to be discrepancy in the land shown as subject matter of the aforesaid sale deed dated 07.05.2012 and the actual piece of land handed over to the first informant.

7. It is to be noted that the subject document stated that the land in Survey No.25/1 was being sold and that the vendor therein was Nitin Gavand. The document is neither signed nor executed by the applicant. It is further submitted that even after the subsequent charge-sheet was filed, neither the accused Nitin Gavand nor the brother of the present applicant were ever required to be arrested and they were presented along with the charge-sheet and released on bail. It was further submitted that the applicant was, at that point in time, residing in United States of America (USA) and this fact was noted when the charge-sheet against him was filed under Section 299 of the Code of Criminal Procedure, 1973 (Cr.P.C.). The applicant, having returned to India in August 2024, is apprehending arrest and therefore, he has approached

this Court.

8. It is fairly submitted that although the applicant is owner of portions of land of other survey numbers in respect of which he had given power of attorney in favour of his father Nitin Gavand, the documents executed by the said co-accused, on the strength of such power of attorney, cannot be said to be the basis for seeking custody of the applicant, so long as he is ready to co-operate with the investigation.

9. On the other hand, learned APP submits that the material on record, particularly after further investigation and filing of subsequent charge-sheet, indicates the role of the applicant. The first informant has appeared in person and submitted that an intervention application is filed. He has vehemently opposed the present application, submitting that the applicant is very much a party to the actions that led to the first informant being cheated and that, allegations pertaining to forgery of documents are also levelled against the applicant.

10. This Court has perused the material on record. The application deserves to be allowed for the following reasons:-

- a. In the FIR registered on 09.10.2020, the first informant has referred to the subject document i.e. sale deed dated 07.05.2012. The vendor therein is the co-accused Nitin Gavand i.e. the father of the applicant. The thrust of all the allegations therein is against the said co-accused person. The case of the first informant at the time of registration of the FIR is that, the said co-accused Nitin Gavand executed the said registered sale deed, giving an impression that it pertained to a piece of land in survey No.25/1, while, as a matter of fact, the land located in other survey numbers was transferred to the first informant under the garb of the

aforesaid registered sale deed. It was also claimed that the area of the land was less than what was stated in the said registered sale deed. There is no reference to the role of the applicant in respect of execution of the said document;

- b. The charge-sheet dated 11.05.2021, filed after completion of investigation on the part of the investigating officer, names the co-accused Nitin Gavand as the only person responsible for the alleged offences. There is no reference to the alleged role of the applicant;
- c. It is only when the subsequent charge-sheet dated 23.09.2022 was filed, that the applicant was arraigned along with his brother as an accused in the present case. Even in such a situation, the brother of the applicant i.e. the co-accused was not arrested, thereby indicating that the investigating officer found no reason to insist upon the physical custody of the said co-accused persons;
- d. At the relevant time when the subsequent charge-sheet dated 23.09.2022 was filed, the applicant happened to be in USA and this fact is noted in the charge-sheet. Having returned in August 2024, the applicant is apprehending arrest. The learned APP has not been able to show the reason why the investigating officer would necessarily require the physical custody of the applicant;
- e. By the very nature of allegations levelled against the accused persons, the material evidence in the present case necessarily pertains to documents and so long as the applicant is ready to co-operate with the investigation and produce all documents in his possession, as may be demanded by the investigating officer, relief can be granted

to the applicant.

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

- A. In the event the applicant is arrested in connection with FIR No.0062 of 2020 dated 09.10.2020 registered with Pali Police Station, District - Raigad, he shall be released on bail on furnishing PR Bond of Rs.50,000/- with one or two sureties in the like amount;
- B. The applicant shall remain present before the investigating officer on 05.12.2024 between 10:00 a.m. and 12 noon and thereafter, as and when called by the investigating officer;
- C. The applicant shall co-operate with the investigation, including producing documents in his possession, as may be demanded by the investigating officer;
- D. The applicant shall not influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence.

12. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

13. The anticipatory bail application is disposed of.

14. In view thereof, the interim application also stands disposed of.

(MANISH PITALE, J.)