



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.47 OF 2024

Laxman Vishwanath Warade

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Khamgaon City, District Buldhana

WITH

CRIMINAL APPLICATION (ABA) NO.26 OF 2024

Pankaj s/o Sitaram Ghorpade

Vs.

State of Maharashtra, Through Police Station Officer, Khamgaon,
District Buldhana

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Gulafshan Ansari, Counsel h/f Mr. M. N.Ali, Counsel for the applicant in
ABA No.47/2024.

Mr. S. V. Sirpurkar, Counsel for the applicant in ABA No.26/2024.

Ms. Soniya Thakur, APP for respondent/State in both applications.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 15/07/2024

1. Apprehending the arrest at the hands of Police, in connection with Crime No.647/2023 registered with Police Station, Khamgaon City, District Buldhana for the offences punishable under Sections 406, 467, 468, 470, 471 of the Indian Penal Code, 1860, the applicants approached this Court for grant of pre-arrest bail.

2. As per the allegation, one Jay Devendra Vastani had lodged the report at Police Station

Khamgaon against the present applicants, on an allegation that they along with their two friends dealing with the business of purchasing and sale of property. They made a transaction to purchase old survey No.144/3 N.A. Plot No. 77 admeasuring 300 Sq. Meter situated at Peth Khamgaon outside the jurisdiction of Nagar Parishad at the rate of Rs.320 rupees per Sq.feet. Accordingly, they have accepted the earnest amount and executed the agreement of sale dated 12/05/2023. Thereafter, they have not executed the sale deed in favour of the complainant and the complainant was duped.

3. The learned counsel for the applicants submitted that now dispute is settled between them and the present applicants have already paid the amount of Rs.2,50,000/- to the complainant. They have also produced on record the agreement between the complainant and the present applicants. As far as the purpose of custodial interrogation is concerned, which is now not surviving. He further submitted that moreover the nature of the transaction between the parties is of a civil nature and no offence is made out.

4. The learned APP strongly opposed the said applications on the ground that the custodial interrogation of the present applicants required as amount is to be recovered.

5. After hearing the learned counsel for the applicants and learned APP for the State, perused the recitals of the FIR as well as various documents from which it reveals that there was an agreement to sale between the parties and due to some reasons the applicants could not executed the sale deed in favour of the complainant therefore, crime is registered. *Prima facie* it appears that the nature of transaction is of civil nature. As far as the custodial interrogation is concerned, which is not required. Moreover, there is no complaint from the investigating agency that the applicants have not cooperated with the investigating agency. Considering the same, and considering the fact that entire investigation is to be carried out on the basis of the documents. The custodial interrogation is not required, in view of that, the interim protection granted to both the applicants by order dated 01.03.2024 and 11.01.2024 is hereby confirmed on the similar conditions.

6. Both the applications are disposed of.

(URMILA JOSHI-PHALKE, J.)