

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

CRIMINAL APPLICATION (BA) NO.622/2024

Fattu s/o Vishvanath Gajbhiye Vs. The State of Maharashtra

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

Court's or Judge's orders

Shri A.S. Mardikar, Advocate for applicant
Shri C.A. Lokhande, APP for non-applicant/State

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/09/2024

The applicant came to be arrested on 05/02/2024 in connection with Crime No.14/2023 registered with Police Station, Beltarodi, Nagpur, for the offences punishable under Sections 420, 447, 465, 468, 120B read with Section 34 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by Dnyaneshwar Laxmanrao Sawarkar alleging that he and his wife purchased two plots bearing No.6 and 66 in the year 2002 from one Pittrachhaya Cooperative Housing Society for consideration of Rs.1,10,000/- and Rs.70,000/- respectively, by executing the registered sale-deed. In the year 2014, complainant started paying corporation tax on the said plot and continued to pay the same till the year 2021 and, thereafter, applied for regularization of the said plot. As he was out of the town for the purpose of job, he did not go to inspect the said plot. Since the demand for the said plot was not issued by the Corporation, the complainant went to inquire about

the said plot and came to know that area of one of the plots i.e. Plot No.66 was reduced and the present applicant with the help of other co-accused prepared 4-5 maps of the said layout, in which, plot No.6 is not shown and thus he was defrauded. On the basis of this allegation, the crime is registered against the applicant and other co-accused.

3. Learned Senior Counsel Shri Mardikar for the applicant submitted that as far as the present applicant is concerned, he is no way concerned with the Pitrukhaya Co-operative Housing Society. In fact, he entered into an agreement with one Avinash Bobade to purchase the landed property bearing Khasra No.43 admeasuring 3.50 R. However, he could not manage the consideration amount, therefore, he only purchased 1 acre from the original owner whereas, the original owner has sold out the remaining land to the Pitrukhaya Housing Society. He submitted that the present applicant has also preferred the suit regarding the disputed land, which was subsequently settled. Thus as far as the present applicant is concerned, he is not concerned with the preparation of map or any document as far as the land belongs to the Pitrukhaya Housing Society is concerned. He submitted that even the recitals of the First Information Report, shows the allegation against the co-accused, who are already in released on bail. Now investigation is already completed and chargesheet is already filed. Considering the same,

further incarceration of the present applicant is not required and, therefore, the applicant be released on bail.

4. Learned APP strongly opposed the said application and submitted that the complainant has failed the consideration amount, but after sometime, it revealed to him that Plot No.6 is not shown in the said layout, for which, he has paid the consideration amount. Thus, considering the entire transaction entered into by the present applicant appears to be fraudulent and, therefore, the application deserves to be rejected.

5. After hearing the learned Senior Counsel for the applicant and learned APP for the State, perused the entire investigation papers, from which it reveals that the contention of the learned Senior Counsel is substantiated by the documentary evidence, there appears to the agreement to sale between the present applicant and Avinash Bobade. The documents further show that subsequently present applicant has purchased 1 acre land from Khasra No.43 from the original owner, whereas remaining was sold out by the original owner to the Pitrukhaya Housing Society. The suit filed by the present applicant is also withdrawn as there was settlement between them. Thus entire issue revolves around the layout prescribed by the co-accused. Thus as far as the present applicant is concerned, it appears that he is not at all concerned with the land, which is purchased

by the Pitruhhaya Housing Society. Now investigation is already completed and chargesheet is already filed. As far as further incarceration is concerned, which is not required as entire issue revolves around the documentary evidence. In view of that the application deserves to be allowed. Accordingly, I proceed to pass the following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant- **Fattu s/o Vishvanath Gajbhiye**, be released on bail in Crime No.14/2023 registered with Police Station, Beltarodi, Nagpur, for the offences punishable under Sections 420, 447, 465, 468, 120B read with Section 34 of the Indian Penal Code, on executing a P.R. Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.
- (iii) The applicant shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. to 1.00 p.m. and shall co-operate with the investigating agency.
- (iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.
- (v) The applicant shall attend the proceedings before the learned trial Court without seeking any exemption unless there are exceptional circumstances.

6. The application stands disposed of.

JUDGE

R.S. Sahare