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

CRIMINAL APPLICATION (ABA) NO. 556 OF 2024

Ganpat Vithoba Paunikar **Vs** State of Maharashtra

Office Notes, Office Memoranda of Coram, appearances, Court's Orders or directions and Registrar's order	Court's or Judge's Order

Mr. S.D. Chande, counsel for applicant.
Mr. U.R.Phasate, APP for non-applicant/State.
Mr. A.R. Ingole, counsel for Assist the Prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/09/2024.

1. Apprehending the arrest at the hands of police in connection with Crime No. 178/2024 registered with Police Station Sakkardara, Nagpur City, Nagpur for the offence punishable under Sections 406, 419, 420, 468, 471 read with Section 34 of the Indian Penal Code, 1860, the applicant approached this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of a report lodged by complainant Shakuntala Rambhau Gumgaonkar alleging that she was working as a peon in Hindusthan Vidyalaya and got retired. It is further alleged that the applicant is a Real Estate Agent and residing near her house. She had decided to purchase a plot in the year 2017. She had entered into a transaction of purchasing a plot Nos. 1 to 11, admeasuring area of 16937 Sq. Ft. in Khasra No. 130, Mouza Pimpaldhara, Tah. Hingna, for consideration of Rs. 33,87,400/-. She made payments in the installment by cheque and cash. In the year 2019, the

applicant fraudulently represented one person as an owner of the land by name Kisan Thavardas Sahajwani in the office of Sub-Registrar and prepared a Special Power of Attorney in the name of daughter of the complainant. The complainant in January-2024 had given full consideration for his plot to Ganpat Paunikar. She had also given to the amount of Rs. 4,00,000/- through cheque drawn on the Central Bank of India, Nagpur, and from her son’s bank account by issuing a cheque for Rs. 75,000/-. The complainant had paid the entire consideration amount, but no sale deed was executed in her favour. Though she approached the applicant, the applicant was not responding to the complainant's request from time to time to make a legal document of the Registry, and for one of the other reasons he has been awarded to execute the same in favour of the complainant. Thereafter, the applicant prepared the sale deed of one acre of land and put his signature in Marathi. Subsequently, the complainant got suspicious of the act of the applicant and went to the Sub-Registrar Office, took a copy of the special power of attorney and visited the address of the original owner, and found that said original owner was not residing at that place. On inquiry, it revealed that plot No. 118 was situated at Kukreja Layout at Jaripatka, Nagpur, and showed the said copy to the original owner. He denied his photo and signature on that Special Power of Attorney, and she understood that she was duped by the present applicant, and therefore, she approached the police station and lodged the report.

3. Learned counsel, Mr. S.D. Chande for the applicant, submitted that the complainant has lodged the report with the false allegation. In fact, the applicant is not concerned with the alleged offence. He submitted that the entire investigation revolves around the documentary evidence, as far as the custodial interrogation of the present applicant is concerned, which is not required. He filed an additional affidavit and submitted that the imaginary story has been put-forth by the complainant. However, nothing is to be recovered from the present applicant, hence he be released on anticipatory bail.

4. Learned APP strongly opposed the said application and submitted that there are criminal antecedents against the present applicant. As similar types of offences are registered against him at Ram Nagar Police Station as well as Sakkardara Police Station, this fact is not mentioned by the applicant in his application. After this fact is brought to the notice of the prosecution, the additional affidavit is filed by the applicant stating that he was not aware about the registration of the said crimes against him, and inadvertently, he forgot to mention the same. He submitted that, because of the offence is serious in nature, the custodial interrogation of the present applicant is required for recovery of the amount. He submitted that the applicant has not only duped the complainant, but he represented one person as a Kisan Sahajwani, as an owner. He has prepared a false Aadhar Card, and with the help of said fraud Aadhar Card, he entered into the transaction. It is submitted that the accused had made a presence of a dummy person instead of a real presence and

duped the complainant. In view of that, the application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the investigation papers, from which it reveals that one special power of attorney was prepared and it was shown that the original owner has executed a power of attorney in favour of the present applicant, and thereafter, he entered into the transaction with the complainant. From the investigation papers, it reveals that the complainant retired from a service and invested her entire amount in purchasing the said plot, but after obtaining the amount, the applicant has represented one person as the original owner and, with the help of the forged documents, attempted to execute a deed. The original owner denied that he has executed any power of attorney in favour of the present applicant. Admittedly, the entire case revolves around the documentary evidence. Merely because the custodial interrogation is not required is not sufficient to protect the present applicant by granting anticipatory bail. The first and foremost thing is that the applicant has suppressed the fact that similar types of the offences are registered against him at two police stations, as this fact was required to be mentioned in the application, which is not mentioned by the applicant. The statements of the complainant and other other witnesses sufficiently show that the applicant has prepared the forged documents and, with the help of forged documents, entered into the transaction with the complainant.

6. Thus, considering the prima facie case made out against the present applicant, merely because his custodial interrogation is not required, is not sufficient to grant him for anticipatory bail. Whether the custodial interrogation is required or not is one of the consideration, but while considering the anticipatory bail application, the court has to consider the nature of the offence and the punishment provided for the same. Moreover, the allegation made against the present applicant, who has prepared the forged document in the name of the original owner, and for that purpose, the custodial interrogation of the present applicant is required.

7. Thus, in view of the above facts and circumstances of the case, this is not the fit case for grant of anticipatory bail. Hence, the criminal application deserves to be rejected. Accordingly, I proceed to pass the following order.

The criminal application is rejected.

[**URMILA JOSHI-PHALKE, J.]**