



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,

NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 80 OF 2024

JAGDISHPRASAD S/O CHANDANLAL JAISWAL

Vrs.

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

Shri Alok Daga, Advocate for applicant.
Ms. Trupti Udeshi, A. P. P for respondent-State.
Shri D. V. Mahajan, Advocate to assist the prosecution.

CORAM: URMILA JOSHI-PHALKE, J.

DATE : 26/02/2024.

1. Apprehending the arrest at the hands of the police in connection with Crime No.957/2023 registered under Sections 387, 406, 420, 465, 467, 468 and 471 of the Indian Penal Code, the applicant approached to this Court for grant of pre-arrest bail.

2. The accusation against the present applicant is on the basis of report lodged by Smt. Kumudbai Narayanrao Pohanekar wherein she has alleged that she purchased the plot No.212(b) of the layout, Kh.No.17/1 from Govindprasad Pande on 10/12/1982 vide registered sale deed No.9925. In the year 2007, the accused approached to her along with unknown person and assured her that he would help her to clear the abovesaid plot. It is further alleged that on 24/04/2007, the applicant called her at the District Court, Nagpur and obtained the signature on stamp paper of Rs.100/- on Vakalatnama and blank papers. On 12/07/2007, he

informed her that he has filed RCS No.787/2007 against Sanjay Pande and Dipak Gondane. They are regularly meeting the present applicant in the Court premises to attend the dates. He informed that she need not be visited in the Court premises in District Court and he would look after everything. Subsequently, he informed that RCS No. 787/2007 has been dismissed by the Court and till the date, he has incurred the expenses of Rs.1,00,000/- and demanded amount of Rs.1,00,000/- from her. The complainant gave Rs.1,00,000/- to the present applicant and demanded all the case papers which were not given by the accused. Thereafter, she came to know that the suit is decided in her favour and subsequently, in the year 2017, she received the summons from the Court from which it revealed to her that the suit was filed against her. Thus, sum and substance of the allegations is that on false pretext, her signatures are obtained by the present applicant and forged document of agreement to sell was prepared and on the basis of said document, he filed a suit for specific performance. On the basis of said report, police have registered the crime against the present applicant.

3. Shri Daga, learned counsel for the applicant submitted that the entire transaction is based upon the document. The informant executed the agreement in favour of present applicant. The present applicant has filed a suit for specific performance wherein, written statement is filed by the informant and she took a stand

that against money transaction, the agreement was executed. Thus, he submitted that there is inordinate delay in lodging the FIR. Delay is not properly explained. The custodial interrogation of the present applicant is not required. In view of that, he be protected by granting anticipatory bail.

4. Learned APP as well as the original complainant strongly opposed the application on the ground that it is the modus operandi of the present applicant to prepare the forged documents and on the basis of forged documents, obtained the possession of various lands. It is submitted by learned APP that during investigation, Investigating Officer has recorded various statements of the witnesses who stated that they have not signed on any agreement for sale. Thus, the signatures of the witnesses are also forged by the present applicant. The Investigating Officer has to seize alleged forged documents and therefore, custodial interrogation is required. Learned APP further invited my attention towards the observation of the Division Bench in Criminal Writ Petition No.27/2023 wherein it is observed that 46 instances related with case numbers are there to show the modus operandi of the accused. It is further observed that matter is having vast magnitude affecting several similarly placed innocent persons and Assistant Commissioner of Police was directed to monitor the investigation and personally to file an affidavit regarding the progress of the investigation. She submitted that considering the gravity

of offence, the application for anticipatory bail deserves to be rejected.

5. Learned APP further submitted that the parameters for grant of anticipatory bail and regular bail are different. Herein in the present case, there is prima facie case against the present applicant and therefore, application deserves to be rejected.

6. Shri Mahajan, learned counsel for the original complainant also endorsed the said contention and prays for rejection of the application.

7. Having heard learned counsel for the applicant and learned APP for the State, perused the investigation papers. Also, the contents of the application that agreement to sell is executed in his favour and on the basis of it, he claimed possession of the suit property. However, the statements of Sunil Aswar and Ramesh Gulabrao Bari show that they never signed on any agreement to sell, which was executed between the informant Smt. Kumudbai Narayanrao Pohanekar and Jagdishprasad Chandanlal Jaiswal. The allegation against the present applicant is that on the pretext of clearing the title of the complainant and as per signature and forged document of agreement to sell is executed. Similar type of complaints are lodged against the present applicant by one Prakash Kolarkar, Ruprao Karale, Chandu Pundlikrao Paradkar, etc. The Division Bench of this Court has noted that all 46 instances are pointed out before it of showing similar modus operandi of the accused. It is further

observed by the Division Bench that the matter is having vast magnitude of several similarly placed innocent persons and the Division Bench found that the investigation is not carried out in proper way and the Assistant Commissioner of Police was directed to monitor the investigation and personally to file an affidavit regarding progress of the investigation in either way. Thus, considering the statements of various witnesses, the recitals of the FIR, the observation of the Division Bench of this Court, prima facie case is made out against present applicant.

8. Learned APP rightly pointed out that the applicant is seeking anticipatory bail for which the parameters are different than the regular bail. While considering the anticipatory bail, the Court has to consider the gravity of the offence. The punishment is provided for the offence and the role of the applicant, whether the applicant would be available for trial and whether there is apprehension of fleeing away by the applicant. Considering all these parameters and prima facie material which is collected during investigation, the applicant has not made out a case for grant of pre-arrest bail. In view of that, application deserves to be rejected. Accordingly, I proceed to pass the following order :-

ORDER

9. The application is rejected.

[URMILA JOSHI-PHALKE, J.]