IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.517 OF 2024

Shivaji Kundalik Chunchekar,
Age : 64 years, Occu. Business,
R/o. 714/D, Shivshakti Hsg. Soc.
Plot No.15, MHADA Colony,
Akurli Road, Kandivali East,
Mumbai – 400101. .. **APPLICANT**

VERSUS

1] The State of Maharashtra,
Through Superintendent of Police,
Jalna, Tal. & Dist. Jalna.

2] The Police Station Incharge Officer,
Sadar Bazar Police Station, Jalna,
Dist. Jalna. .. **RESPONDENTS**

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Mr.P.R.Katneshwarkar, Senior Advocate, for the applicant.
Mr.S.M.Ganachari, APP for the respondent-State
Mr.C.V.Dharurkar, Advocate for the Assist to P.P.

…

CORAM : ARUN R. PEDNEKER, J.

DATE : 24.01.2025

P.C. :

1] Heard learned counsel for the applicant and the learned APP for the respondent-State.

2] The applicant is apprehending arrest in connection with FIR No. 1055/2023, registered at Sadar

Bazar Police Station, Jalna, District Jalna, for the offences punishable under sections 120B, 386, 406, 419, 420, 463, 465, 467, 468, 471 and 34 of the Indian Penal Code.

3] The applicant is the owner of the property situated at Gat No.548 admeasuring 2 Hector 85 R. at village Vaghul, Taluka Jahangir, District Jalna. The applicant had purchased the property from the predecessor in title on 10.07.2018 vide registered sale deed bearing 2691/2018. Thereafter on 04.07.2023, an agreement to sell was purportedly alleged to be executed between the applicant and the complainant Manoj Madanlal Mutha. The said agreement bears forged signature of the applicant and was executed by an impersonator. On 06.07.2023, the applicant entered into Memorandum of Understanding [MoU] with accused Sunil Khurde for sale of the said property for consideration of Rs.3,15,00,000/-. As per MoU, earnest money of Rs.10 lac was agreed upon, which bears the original photo and signature of the applicant.

4] One of the cheque given by the complainant of Rs.5 lac was utilized by Sunil Khurde in making the payment to the present applicant. The said cheque is given of his partner and MoU was entered. He gave Rs.5 lac by cheque and Rs.5 lac by cash. It is stated that Sunil Khurde opened a Bank Account in the name of applicant at Devgiri Nagari Sahakari Bank using the stolen documents and received large money from the complainant and impersonated the present applicant.

5] Thereafter, on 26.10.2023, the present applicant filed a complaint with Jalna Police Station regarding the impersonation and fraud against Sunil Khurde and other persons.

6] It is the contention of the applicant that the applicant himself is cheated by Sunil Khurde, who had collected Aadhar Card and other documents of the present applicant. Subsequently, it was discovered by the applicant that Sunil Khurde had impersonated him and fraudulently sold the land to Manoj Madanlal Mutha, Purnima Dinesh Barlota and Pravita Sanjay Jain without his knowledge. Sunil Khurde has opened a bank account in the name of applicant at Devgiri Nagari Sahakari Bank by using stolen documents. It is further submitted that this Court, by order dated 05.04.2024, has granted interim protection in favour of the applicant and the applicant has attended the concerned police station and has co-operated with the investigation. The applicant is 66 years old. The suit is also filed by the complainant seeking injunction in which only partial injunction was granted, injecting the applicant from alienating the land.

7] It is submitted that the son of the applicant, namely, Shailesh Shivaji Chunchekar is seriously ill and he needs medical treatment, as such, the applicant had entered into an agreement to sell with the Sunil Khurde.

8] *Per contra,* the learned counsel for the complainant submits that Sunil Khurde is missing and that the amount of Rs.5 lac has been credited to the bank account of the present applicant, as such, the relation between the applicant and Sunil Khurde stands established and Sunil Khurde is absconding. As such, the custodial interrogation of the applicant is necessary in the matter to unearth the entire crime of cheating. It is submitted that the complainant has paid full consideration and the same is received by the applicant and Sunil Khurde, as such, anticipatory bail application filed by the applicant be dismissed.

9] From perusal of the record, *prima facie,* it appears that the applicant and the complainant are both cheated by one Sunil Khurde. The only solitary piece of evidence of connecting the applicant to Mr. Khurde is the deposit of cheque of Rs.5 lakhs given by the complainant towards the agreement of sale of the land, deposited in the account of the applicant. However, the applicant has accepted that he has received the cheque from Mr.Khurde towards the agreement of sale he had entered with

Mr.Khurde and the cheque was given by Mr.Khurde to the applicant on the assurance that the cheque is signed by one of his partners. The applicant was concerned with his money and had not verified the source of the cheque and had no reason to disbelieve Mr.Khurde. Sunil Khurde has also opened a bank account, by using stolen documents, in the name of applicant at Devgiri Nagari Sahakari Bank and has accepted balance consideration in the said account. Even the thumb impression of the vendor were not matching while executing the sale deed, as such, Mr.Khurde had mentioned that the impression are updated, therefore, the updated thumb impression did not reflect in the Aadhar card. This appears from the statement of the complainant himself. Sunil Khurde also cheated the present applicant and that civil suit is also pending between the parties [applicant and complainant] qua the same land. In terms of order dated 05.04.2024, the applicant has attended the concerned police station and has co-operated with the investigation. The applicant is 66 years old and the son of the applicant needs medical treatment. Considering the said fact, the interim protection granted by this Court by order dated 05.04.2024 stands confirmed, on the following terms :

i] The applicant shall attend the concerned police station as and when required by the investigating officer.

ii] The applicant shall not tamper with the evidence of the prosecution in any manner. He shall not influence the informant, witnesses and other persons concerned with the case.

iii] The applicant shall co-operate with the investigation and also in the proceedings before the trial Court.

10] In the event, the applicant violates any of the conditions specified in this order, it shall be liable to be cancelled.

11] It is also clarified that the observations made in this order are limited to the disposal of the present anticipatory bail application and the trial Court shall proceed further in the matter without being influenced by the observations made hereinabove.

12] The application stands disposed of.

[ARUN R. PEDNEKER]
JUDGE

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