

Ajay

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO. 919 OF 2024
WITH
INTERIM APPLICATION NO. 3414 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 919 OF 2024**

Tayyab Haider Siddique	.. Applicant
Versus	
State of Maharashtra	.. Respondent

**WITH
INTERIM APPLICATION NO. 1504 OF 2024
IN
ANTICIPATORY BAIL APPLICATION NO. 919 OF 2024**

Tarun Ramesh Bellam	Intervener /
	.. First Informant

IN THE MATTER BETWEEN

Tayyab Haider Siddique	.. Applicant
Versus	
State of Maharashtra	.. Respondent

-
- Mr. R.K. Sharma a/w, Mr. Soheb Shaikh, Advocates for Applicant.
 - Mr. Tejas Kothalikar a/w. Mr. Karma Vivan, Advocates for Intervenor in Interim Application No.1504 of 2024.
 - Mr. Sukanta A. Karmakar, APP for State.
-

CORAM : MILIND N. JADHAV, J.

DATE : JUNE 09, 2025

JUDGEMENT:

1. Application for anticipatory bail is filed under Section 438 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**"). Applicant is apprehending arrest being arraigned as Accused No. 1 in

F.I.R. No. 553 of 2022 registered with Mahatma Phule Chowk Police Station, Thane for offences punishable under Sections 420, 465, 467, 468, 479 r/w Section 34 of the Indian Penal Code, 1860 (for short "**IPC**"). Interim Application No.3414 of 2024 is filed by Applicant seeking permission of Court to travel abroad for work. Interim Application No.1504 of 2024 is filed by First Informant – Complainant to oppose Anticipatory Bail Application.

2. FIR is filed on 27.09.2022. Applicant, First Informant and their common friend called Vinod Shukla are Merchant Navy Sailors. It is prosecution case that Applicant introduced First - Informant and Vinod Shukla to Accused No. 2 – a land broker. Sometime in the year 2017, Accused No.2 introduced all three of them to a 2.5 acres land parcel in Murbad region of Maharashtra for investment purpose. First - Informant, Vinod Shukla initially decided to purchase 1 acre each and remaining portion was decided to be purchased by Applicant. However in July 2017 First Informant's wife, Vinod Shukla and Applicant executed various documents seeking mutation of their names in the 7/12 extract for the land purchased by them from several farmers / vendors through several registered Sale Deeds. It is alleged that on 10.07.2017 First - Informant paid 1.5 lakhs to one land owner by cheque and \$20,000 equivalent to Rs. 12,90,000/- in cash to Applicant to fructify the said land transaction towards consideration.

3. In August 2017, Applicant and Accused No.2 introduced First - Informant and Vinod Shukla to a 2.5 acres land parcel in Karjat region of Maharashtra for which documents were executed in the name of First - Informant's wife, Vinod Shukla and Applicant. It is alleged that on 01.09.2017, First - Informant paid Rs. 2 lakhs to one of the land owner by cheque and \$20,000 equivalent to Rs. 12,90,000/- in cash to Applicant to fructify the said land transaction towards consideration.

4. On 19.09.2017, all 3 friends decided to establish a company for training Merchant Navy personnel. They came together and formed a company called VTA Shipping Pvt. Ltd. It is prosecution case that Applicant persuaded them to invest for a third time by purchasing 18 acres of land parcel in Kalamb region of Maharashtra for the purpose of setting up a Training Institute for which sale documents were executed in the name of First - Informant, Vinod Shukla and Applicant's wife. It is prosecution case that once again First - Informant paid Rs. 25 lakhs by cheque to Accused No.2 and \$10,000 equivalent to Rs.6,45,000/- in cash to Applicant to fructify the land transactions with various vendors. Thus they all invested in purchasing three land parcels. However later Applicant expressed his wish to not continue as Director in the Company and he resigned in the year 2018.

5. It is prosecution allegation that Applicant was one of the beneficiary / recipient under the aforesaid land transactions. It is alleged that Accused No.2 - broker prepared and facilitated the entire documentation process of all three land transactions with different / several vendors / farmers. It is stated that thereafter First Informant resigned as Director from the said Company and withdrew himself but his place was taken over by Vinod Shukla and his wife who thereafter continued to be Directors of VTA Shipping Pvt. Ltd. According to prosecution Accused No.2 prepared the entire documentation for purchase of 23 acres of land, *inter alia*, from different Survey Numbers and several vendors / agriculturist / farmers they (First – Informant and Vinod Shukla) paid an amount of Rs.65.45 lakhs each in cash and cheque to Applicant and Accused No.2. Insofar as First Informant is concerned, it is alleged that he paid the amount in three tranches. According to prosecution he paid amount of \$20,000 equivalent to Rs. 12,90,000/- in cash on 10.07.2021, amount of \$20,000 equivalent to Rs.12,90,000/- in cash on 01.09.2017 and amount of \$10,000 equivalent to Rs.6,45,000/- in cash on 26.09.2017. However remaining amount was paid to Accused No.2 by cheque. Thus according to First Informant he paid total amount of Rs. 65.25 lakhs in cash and cheque to Applicant and Accused No.2 for purchase of the land parcels.

6. Thereafter it is prosecution case and allegation of First Informant that documentation prepared by Accused No.2 turned out to be forged and fabricated since he was unable to mutate their names in the land revenue records pertaining to said land parcels as the land purchased by them was tribal land and there was an embargo on transfer of the said land. Therefore, First Informant filed FIR on 27.09.2022. Record shows that insofar as Vinod Shukla is concerned, though it is alleged by First Informant that he also paid an equivalent amount of Rs.65.45 lakhs to Applicant and Accused No.2, he has not filed any complaint.

7. In view of the aforesaid allegations of Applicant and Accused No.2 having received amount of Rs.1.35 crores paid partially in cash and cheque, FIR is filed. There is one issue which needs to be reiterated and that is when the land parcels were shown and documentation were prepared by Accused No.2, admittedly wife of First Informant, who is an Architect by profession carried out due diligence in respect of the same. It is however not clear from the material which is placed on record as to when, how and in whose presence the alleged cash amounts were delivered or paid by First Informant to Applicant or Accused No.2. Needless to state that case of prosecution in this regard will have to be proved only at trial on the basis of evidence and burden of proof since mere allegation of

payment of cash amount to Applicant in the aforesaid delineated facts cannot take the prosecution case any further. It is prosecution case that Applicant in connivance with Accused No.2 executed various Agreements and documents with regard to different Survey Numbers, promising ownership and transfer through updated 7/12 records, which never materialized as the land parcels were tribal lands - owing to its nature which could not be transferred without prior permission of the State Government.

8. Mr. Sharma, Learned Advocate appearing on behalf of Applicant would submit that First – Informant, his friend Vinod Shukla and Applicant are all Merchant Navy personnel. He would submit that a private limited company was established on 19.09.2017 for seeking requisite license from the Director General of Shipping and a copy of Incorporation Certificate of the said company is appended at page No.49 of the compilation. It was however in the interregnum that Applicant engaged services of Accused No.2 who is a land broker by profession who showed the land parcels to the Directors of VTA Shipping Pvt. Ltd. He would submit that entire documentation pertaining to the land parcels were scrutinized and verified by First – Informant's wife, who is an Architect by profession and only upon her due diligence and confirmation, all three partners of VTA Shipping,

including Applicant agreed to purchase the land parcels in three (3) tranches over a period of time.

8.1. He would submit that due to subsequent change in business strategy, Applicant tendered his resignation from the company within six months of its incorporation. First – Informant also resigned simultaneously after which Vinod Shukla and his wife continued to remain Directors of the company. He would submit that though the incidents of purchase of land parcels through registered sale deeds date back to the year 2017, however FIR is filed on 27.09.2022 by First – Informant after an unexplained delay of almost 4 to 5 years against Applicant. He would submit that on perusal of FIR it is seen that role attributed to Applicant is only pertaining to introducing First – Informant and Vinod Shukla to the co-accused No.2 (land - broker) and allegedly he having been paid Rs.65.25 lakhs by First – Informant for purchase of the land parcels. He would submit that on perusal of First - Informant's statements recorded on 27.09.2022 and 29.11.2022 it is seen that First - Informant alleges to have paid \$50,000 in cash to Applicant with regard to land transactions but there is no substantial / documentary or any incriminating material evidence placed on record to corroborate this fact of payments made to Applicant on 3 different occasions save and except the mere bald allegations.

8.2. He would submit that if at all prosecution case is to be considered then it is highly improbable and contrary to normal course of business that amount of \$50,000 in cash was given to Applicant without any receipt, agreement or acknowledgment which raises doubt on the prosecution case. Moreover there are inconsistencies and contradictions in the amounts allegedly paid to Applicant, which further indicate a clear afterthought on the part of First – Informant. He would submit that even in the prosecution complaint essential ingredients of Section 420 of IPC are not satisfied as records show that Applicant / Applicant's wife are party to every document / agreement executed and hence no *prima facie* case can be made out whatsoever by prosecution against Applicant. He would submit that no specific role has been assigned or attributed to Applicant under Sections 465, 467, 468 and 471 of the IPC either. He would submit that allegations with respect to forgery are solely directed towards co-accused No.2, who has already been granted bail by order dated 01.08.2024 by this Court (Coram: Sarang V. Kotwal, J.).

8.3. He would submit that no recovery of forged documents or cash amount is made at the instance of Applicant. He would submit that investigation is completed, chargesheet is filed, hence Applicant's custodial interrogation is neither necessary nor warranted and

Applicant is ready and willing to extend his cooperation as required for the purpose of any further investigation.

8.4. Next, he would submit that very basis of grievance raised by First – Informant could at the highest, pertain to a failed business relationship and financial transactions which give rise to a civil dispute which is sought to be given the colour of criminality only because civil remedy would be hit by delay and laches, law of limitation and execution of land transactions contrary to provisions of the Maharashtra Land Revenue Code, 1966. Hence he would urge the Court to allow the present Application.

8.5. In support of his above submissions he has referred to and relied upon the following decisions of the Supreme Court:-

- (i) *Barun Chandra Thakur Vs. Ryan Augustine Pino*¹;
- (ii) *Nikesh Tarachand Shah Vs. Union of India*²;
- (iii) *Gurubaksh Singh Sibbia Etc. Vs. State of Punjab*³;
- (iv) *Arnesh Kumar Vs. State of Bihar & Anr.*⁴; and
- (v) *Parvez Noordin Lokhandwalla Vs. State of Maharashtra*⁵

9. Mr. Karmakar, learned APP for Respondent – State would vehemently oppose the Application. He would submit that Applicant is

¹ 2019 SCC OnLine SC 1899

² (2018) 2 SCC (Cri.) 302

³ 1980 AIR 1632

⁴ (2014) 8 SCC 273

⁵ AIR 2021 SC 641

the principal conspirator who with full knowledge of the nature and legal restrictions on transfer of land parcels in question, intentionally lured First Informant and his friend Vinod Shukla into purchasing 23 acres of land parcels from different Survey Numbers, falsely representing the same to be agricultural lands. He would submit that Applicant despite being aware of the legal embargo, actively misrepresented and executed various documents and cheated First – Informant and his friend.

9.1. He would submit that Applicant not only introduced both First - Informant and Vinod Shukla to Accused No.2 but also participated in execution of notarized Agreements of sale, lease deeds, consent deeds and irrevocable power of attorney which clearly depict Applicant's role in orchestrating fraudulent transactions. He would submit that Applicant is an indirect beneficiary of Rs.65.25 lakhs out of the total amount paid to him and Accused No.2. He would submit that the crime in question is of a serious nature. He would submit that ingredients of Section 420 IPC are clearly satisfied, as Applicant is the principal accused who initiated the transactions with intention to deceive First – Informant and his friend. He would submit that Sections 465, 467, 468 and 471 are also attracted as Applicant in connivance of co-accused No.2 forged / fabricated 7/12 land extracts to falsely portray ownership and cheated First – informant and his

friend not once but thrice with respect to three land parcels thereby demonstrating a pattern of criminal conduct.

9.2. He would submit that custodial interrogation of Applicant is imperative as Applicant is in possession, custody or knowledge of the misappropriated funds which are yet to be recovered. He would submit that mere filing of a chargesheet cannot be a ground to deny custody if investigation remains pending. Reliance is placed on the settled legal position by the decision of the Supreme Court in the case of *P. Chidambaram Vs. Directorate of Enforcement*⁶ wherein it is held that in cases involving economic offences, particularly those with a wide impact and wherein public confidence is shaken, anticipatory bail should be granted sparingly and only in exceptional circumstances. Hence he would urge the Court to reject the Application. In the first instance, the ratio of the aforesaid decision of the Supreme Court cannot be applicable to the facts of the present case as parties have over a substantial period of time executed several registered documents regarding land transactions with the vendors / owners of the said land parcels and there is no involvement of any public money in the present case.

10. Mr. Kothalikar learned Advocate for Respondent No. 2 – Intervenor would adopt the submissions made by Mr. Karmakar,

⁶ (2019) 9 SCC 24

learned APP. He would submit that Applicant in connivance with Accused No.2 induced both First - Informant and Vinod Shukla to purchase three land parcels, facilitated the negotiations and executed agreements and various other documents in that regard. He would submit that Applicant is one of the buyer / receipt of the said land parcels however under the pretext of mutation of names in the 7/12 extracts of land record, he cheated them to a total of Rs.1.35 crores out of which Rs.65.25 lakhs was paid by First – Informant. He would submit that Applicant despite being aware of the fact that the said land parcels were tribal lands which could not be transferred without prior permission of State Government, made a false representation of they being freehold agricultural lands, which clearly depicts Applicant's fraudulent intention from the very inception to deceive First – Informant and his friend Vinod Shukla. He would submit that Applicant in connivance with Accused No.2 executed various transactional documents for transfer of various land parcels, however instead of the real owners executing the same some impostors were made to sign the transaction documents / agreements as land owners. He would submit that essential ingredients of Section 420 of IPC are therefore *prima facie* met with. He would submit that despite constant follow up Applicant gave evasive answers or gave false promises and eventually stopped receiving First Informant's phone calls.

10.1. He would submit that in such circumstances, First – Informant was left with no other option but to accept alternate proposals of Accused No.2 to overcome the situation which led to further deceit. He would submit that Applicant is the mastermind behind the entire fraud and his acts have caused immense financial losses to First – Informant and his friend Vinod Shukla. He would submit that though chargesheet is filed however further investigation is still pending with regard to absconding accused persons. He would submit that Applicant is in possession of First – Informant and his friend's monies which are yet to be recovered. He would therefore urge the Court to reject the ABA.

11. I have heard the learned Advocates appearing for the respective parties, considered their rival submissions and with their able assistance, perused the record of the case. Submissions made by the learned Advocates has received due consideration of the Court.

12. *Prima facie* on perusal of record, it appears that the core allegation of prosecution case pertains to two principal facets - first, introducing Accused No.2 -broker to First Informant and Vinod Shukla and alleged misrepresentation that land parcels were freehold agricultural land and secondly, receiving amount of Rs.65.25 lakhs. However on perusal of record it is alleged that \$50,000 were paid by First Informant in cash to Applicant. From the record of the case, it is

seen that this is a case of failed business arrangement and land transactions between parties who are previously well known to each other and who engaged in a prospective commercial venture. Applicant, First – Informant and his friend Vinod Shukla are all Merchant Navy sailors well acquainted with each other prior to the subject transactions in question.

13. *Prima facie* it is seen that there is an unexplained delay of nearly 4 to 5 years in filing of the FIR which raises doubt on the prosecution charges. With regard to alleged transaction of Rs.65.25 lakhs paid to Applicant, it *prima facie* lacks material evidence as no material *prima facie* believable documentary evidence is placed on record to corroborate the fact that Applicant received the monies considering the magnitude of the alleged payments at 3 different points of time. *Prima facie* it is seen that the payments were received by the vendors of the land parcels. Moreover, contradictory figures and inconsistencies in the amounts paid to Applicant further dilute the prosecution case which is crucial at this *prima facie* stage.

14. All that is placed on record are notarized documents / agreements for sale which demonstrate that Applicant and his wife were one of the purchasers alongwith First – Informant and Vinod Shukla. Record shows that Vendors of all three different survey numbers have given their irrevocable Power of Attorney in favour of

First - Informant's wife, Vinod Shukla and Applicant in two of the land transaction and First - Informant, Vinod Shukla and Applicant's wife in the last and final land transaction. Thus rights of parties are governed by Agreements and other documents. It is *prima facie* seen that the dispute was raised due to failure of mutation of their names in the land revenue record. In this view of the matter role of Applicant is decipherable as he is one of the beneficiary / recipient similar to First - Informant's wife and Vinod Shukla. It is *prima facie* seen that no evidence is placed on record to depict the alleged fraudulent intention of Applicant at the inception stage as co-accused No.2 introduced the said land parcels in his capacity as a broker. It is *prima facie* seen that the said business transaction to acquire land was taken jointly and Applicant's role is limited to introducing the parties and facilitating preliminary steps which does not amount to an offence under Section 420 of IPC.

15. Allegation of forgery are *prima facie* alleged solely towards co-accused No.2 who is alleged to have forged and fabricated the 7/12 extracts. It is not the prosecution case that Applicant participated in forgery. The allegations appear to relate to a failed investment and land acquisition transactions and the subsequent grievance is predominantly of a civil nature. The factual matrix including the prior relationship between the parties, the joint

incorporation of a company, the absence of written agreements supporting the alleged payments, and the Applicant's limited role, suggest that dispute arises out of commercial dealings which are now being given a colour of criminality possibly to circumvent the bar of limitation in civil proceedings as also protraction in litigation.

16. While relying on the decision of the Supreme Court in the case of *Ramesh Kumar Vs. State (NCT of Delhi)*⁷ considering Bail Applications, the Court held that criminal proceedings are not for realisation of disputed dues and thus a criminal Court exercising jurisdiction to grant bail / anticipatory bail is not expected to act as a recovery agent to realise the dues of the First - Informant, and that too, without any trial (*emphasis supplied*). Supreme Court has however held that in exceptional cases where allegation of misappropriation of public money by Accused is levelled, it would be open to the concerned Court to consider whether in the larger public interest the money which is misappropriated be allowed to be deposited before application for Anticipatory Bail or Bail is taken up for consideration. However that is not the case here.

17. In the present case, it is seen that the First - Informant and his friend Vinod Shukla have not instituted any civil Suit for recovery of their money allegedly paid to the Applicant for purchase of

⁷(2023) 7 Supreme Court Cases 461.

the said lands. Considering the facts in the present case and having regard to the nature of dispute between the parties delineated herein above which is predominantly civil in nature, process of criminal law has been pressed into service for settling a civil dispute.

18. In the light of the above, this Court is of the opinion that custodial interrogation of Applicant is neither warranted nor necessary in the facts of the present case and *inter se* rights of all parties. *Prima facie* the dispute between parties is of a civil nature coupled with absence of essential ingredients of the alleged Sections. I am of the opinion that the liberty of Applicant needs to be protected. In view of the above and looking at the nature of the issues involved in the present case, apprehension of First – Informant and prosecution can be well addressed by this Court by laying down appropriate conditions. In my opinion custodial investigation of Applicant is therefore not required especially when the Accused No.2 has already been enlarged on bail. Appropriate conditions shall be imposed on Applicant regarding participation in investigation, disclosure and to ensure that there is no impediment caused to First - Informant in the interregnum until completion of trial. Needless to state that complicity of Applicant can be proved at trial.

19. In view of the above, Anticipatory Bail Application is allowed, subject to the following terms and conditions:-

- (i) In the event of the arrest, Applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer at concerned Police Station initially from 10.06.2025 to 10.07.2025 from 10:00 a.m to 05:00 p.m. twice a week and thereafter as and when called for by the Investigating Officer for investigation;
- (iii) Applicant shall disclose and produce before Investigating Officer all such relevant material bank statements and with respect to documents which are finding place in the Complaint by First - Informant as also appended to Application;
- (iv) Applicant shall furnish particulars of his address and mobile numbers to the Investigating Officer where he will be residing during the completion of the trial within one week from today;
- (v) Applicant shall deposit his passport with the Trial Court within 2 weeks from today and he shall not leave the State of Maharashtra without the

permission of the Trial Court; Interim Application is filed by Applicant is disposed with direction to Applicant to approach the Trial Court for travel permission in accordance with law;

- (vi) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence or create any impediment or trouble in respect of the investigation;
- (vii) It is directed that Applicant shall extend complete cooperation in investigation of the instant case; and
- (viii) Any infraction of the above conditions shall entail cancellation of this order.

20. Anticipatory Bail Application stands allowed and disposed in the above terms.

21. In view thereof, Interim Application No.3414 of 2024 and Interim Application No.1504 of 2024 stand disposed.

Ajay

[MILIND N. JADHAV, J.]

AJAY
TRAMBAK
UGALMUGALE
Digitally signed
by AJAY
TRAMBAK
UGALMUGALE
Date: 2025.06.09
11:50:26 +0530