

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.18 OF 2025

Khetsingh Takhatsingh Medatiya .. Applicant
Versus
The State of Maharashtra and Anr. .. Respondents

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- Mr. Manoj Mohite, Senior Advocate a/w. Mr. Shrey S. Lodha, Advocate for Applicant.
 - Mr. Hitendra J. Dedhia, APP for Respondent – State of Maharashtra.
 - Police Sub Inspector – M. M. Khan, Nayanagar Police Station (Mobile No.7972114385).
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 07, 2025

P.C.:

1. Heard Mr. Mohite, learned Senior Advocate for Applicant and Mr. Dedhia, learned APP for Respondent – State of Maharashtra. Perused the record with their able assistance.

2. The Applicant is Accused in CR No.-I487 of 2024. The complaint was registered on 23.11.2024 with Naya Nagar Police Station for offences punishable under Sections 420, 465, 467, 468 and 471 of the Indian Penal Code, 1860 (for short '**IPC**'). Considering that allegations for offences are pertaining to the years 2005 to 2007, the complaint is lodged and registered under the IPC.

3. *Prima facie*, it is seen that the issue before hand is nothing but a civil dispute. Mr. Mohite would submit that land in dispute for

which the complaint has been lodged *qua* the three documents pertaining to the years 2005, 2007 and 2008 at the inception stage belong to one Chauhan family. Originally, one Satoskar family was owner of the land and pursuant to the Consent Terms filed in Special Civil Suit No.529 of 1989, upon complinace of the payment conditions stated therein, the Satoskar family executed Sale Deed (Deed of Conveyance) in favour of Shravan Singh Chauhan. He would submit that the Chauhan family was based in Rajasthan at the then time comprising of 40 members / co-sharers / inheritors / descendants. He would submit that in the year 1991, the Chauhan family created third party rights and interest in the favour of one Aslam Khan in respect of the said land / disputed property. He would submit that thereafter the said Aslam Khan created third party rights and interest in favour of M/s. Krishna Builders and thereafter M/s. Krishna Builders some time in 1990 created third party rights and interest in favour of Mr. Purushottam Patel.

4. He would submit that from the year 1990, there was a litigation with respect to the said land / disputed property. Initially a decree came to be passed in the Civil suit in favour of Mr. Purushottam Patel which came to be reversed in the year 2024 in Appeal. It is only after this stage that some members of the original Chauhan family rather a Constituted Power of Attorney of one of the member of the Chouhan family. have filed the present First Information Report (for

short 'FIR'). What is alleged in the FIR is that Applicant has cheated the family members of the original Chauhan family by virtue of documents executed with them and between them in the years 2005, 2007 and 2008. Reading of these very documents appended to the Application present a very shocking picture to which I will advert to herein below.

5. Applicant before me has clearly placed reliance on Agreement of Sale and other documentary evidences evidencing the transfer of the subject / disputed land to the Applicant by virtue of the documents executed in the years 2005, 2007 and 2008. To counter that Complainant has alleged fabrication of the said documents. *Prima facie* Complainant is not one of the signatory to the 3 documents. All that would undoubtedly be a matter of investigation and trial.

6. What is clinching in the present case is the fact that Applicant before me is in physical possession of the said subject / disputed land since the year 2005 and therefore the stoic silence of the Complainant/s all these years speaks volume. Whether a case for cheating is even maintainable or not in view of the above facts is a question searching an answer and it shall be discernible only on the basis of investigation that will be carried out. The Application before me is filed by the Applicant who is in possession of the said subject / disputed land since long. The 3 documents of 2005, 2007 and 2008 in

question are appended to the Applicant before me. I have perused the same. Needless to state that the Investigating Officer will also go through the same.

7. What is intriguing is the fact that 37 then surviving members out of the 40 members of the original Chauhan family have executed the documents alongwith their signatures alongside their respective photographs. Complainant in question is lady called Ms. Sohan Kavar Shivraj Singh claiming to be constituted Power of Attorney of one Shri Hanuman Singh Chauhan. The name of Shri Hanuman Singh Chauhan having executed the document alongside his photograph can be seen at page No.183 of the Application. From the record and more specifically page No.47 of the Application, it is seen that Applicant before me is not only in the possession of the said subject land / disputed property but has also constructed on the said property a shed and is also developing the said property. Locus of the Complainant is clearly questionable on *prima facie* ascertaining the above facts on the basis of the documents.

8. The Investigating Officer will ensure that proper investigation is carried out. Applicant clearly deserves to be allowed Anticipatory Bail. Hence, the present Anticipatory Bail Application is allowed in terms of prayer clause (a), however 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.25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer at the concerned Police Station, as and when called for by the Investigating Officer for investigation;
- (iii) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within one week from today;
- (iv) 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; and
- (v) It is directed that Applicant shall extend complete cooperation in the investigation of the instant case.

9. Parties to act on a server copy of this order.

10. Anticipatory Bail Application stands allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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