AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3124 OF 2025

Khetsingh Takhatsingh Medtiya … Applicant

V/s.

State of Maharashtra & Anr. … Respondents

AND

ANTICIPATORY BAIL APPLICATION NO.3125 OF 2025

Suresh Kumar Siddarth … Applicant

V/s.

State of Maharashtra & Anr. … Respondents

Mr. Ravi Kadam, Senior Advocate with Sujit Sahoo, Shrey Lodha, Mr. Dulraj Jain, Zainab Burmawala, Reeta Sharma and Ritvik Sharma for the applicant in ABA/3124/2025.

Mr. Sujit Sahoo, Shrey Lodha, Mr. Dulraj Jain, Zainab Burmawala, Reeta Sharma and Ritvik Sharma for the applicant in ABA/3125/2025.

Mr. R.M. Pethe, APP for respondent No.1-State in ABA/3124/2025.

Mr. B.V. Holambe Patil, APP for respondent No.1-State in ABA/3125/2025.

Mr. Rizwan Merchant with Tarun Sharma, Mahesh Patil, and Ritesh Tiwari for respondent No.2 in ABA 3124/2025.

Mr. Aabad Ponda, Senior Advocate with Tarun Sharma, Mahesh Patil, Ritesh Tiwari and Hansraj Solanki for respondent No.2 in ABA 3125/2025.

CORAM : AMIT BORKAR, J.

DATED : DECEMBER 8, 2025

P.C.:

1. The applicants seek protection from arrest in connection with Crime Register No. 336 of 2025 registered at Nayanagar Police Station. The prosecution alleges commission of offences under Sections 318(4), 336(2), 336(3), 338, 340(2) and 3(5) of the Bharatiya Nyaya Sanhita 2023. Each applicant has therefore approached this Court under Section 482 of the Bharatiya Nagarik Suraksha Sanhita 2023.

2. I have heard Mr. Kadam, learned senior counsel for the applicants. I have also heard Mr. Ponda, learned senior counsel and Mr. Marchant for the first informant, and Mr. Pethe, learned APPs for the State. With their assistance I have gone through the FIR, the earlier FIR, the documents relied upon by both sides as also the prior orders of this Court and of the Supreme Court.

3. The prosecution case in the present FIR, in substance, is that the applicants, in furtherance of a conspiracy, have fabricated and used forged documents to create and enforce a claim over immovable property. It is alleged that a forged power of attorney of 2005 and an agreement for sale-cum-development dated 31 August 2007 were used earlier. It is now further alleged that a newly “unearthed” power of attorney dated 19 November 1975, said to be executed by thirty nine members of the Chauhan family in favour of one Shravan Singh Chauhan, has been used along with the 2007 agreement to obtain registration, under the

Amnesty Scheme, of an agreement for sale dated 4 February 2025 and a deed of confirmation dated 25 August 2025 in respect of about 1813.62 square metres of land.

4. The applicants' main submission is that the present prosecution is, in essence, a continuation of the same dispute which has already given rise to the earlier FIR. They contend that the alleged forged documents of 2005 and 2007, as also the rights claimed through the Chauhan family, were directly in issue in the earlier FIR and in the related civil suits. This Court, while granting anticipatory bail in the earlier FIR, recorded a prima facie view that the dispute carries a strong civil flavour and that the ingredients of the alleged offences do not clearly emerge. That order has been upheld by the Supreme Court. The applicants submit that the prosecution cannot, by clothing the same dispute in the garb of a second FIR and by introducing one more power of attorney, subject them again to the threat of arrest.

5. Learned senior counsel for the applicants has submitted that there cannot be multiple FIRs for the same transaction or for what is essentially the same occurrence and that any further information has to be treated as part of the investigation in the first FIR. It is submitted that the alleged use of the 1975 power of attorney in 2025 and the consequent registrations are only later manifestations of the same alleged scheme which is already under investigation. The applicants submit that this aspect may not be finally decided at this stage, but that the substantial overlap is sufficient to tilt the balance in their favour in an application for anticipatory bail. The applicants further submit that all three vendors under the agreement for sale dated 4 February 2025 have received in aggregate an amount of Rs. 26 lakhs towards consideration. It is stated and accepted by the prosecution during arguments that such payment has, in fact, been made and that cheques have been issued and encashed to that extent, though there are disputes about further payments and dishonour of some cheques. The applicants submit that when consideration has passed from the purchasers to the vendors, and the vendors have accepted and retained substantial amounts, the transaction cannot, at the threshold, be painted purely as a criminal conspiracy to cheat. According to the applicants, this reinforces the earlier finding of this Court that there is a dominant civil element in the dispute.

6. On the other hand, learned senior counsel for the informant and learned APPs submit that the present FIR stands on a distinct footing. They stress that the alleged power of attorney of 19 November 1975 never surfaced earlier. It was never pleaded, asserted or relied upon by the applicants in any civil proceedings, in the investigation of the earlier FIR, or in any contemporaneous document relating to the property. It is contended that the sudden invocation of this 1975 document in 2025, and its use for registering the agreement for sale dated 4 February 2025 and the deed of confirmation dated 25 August 2025, itself shows that a fresh offence has been committed. They submit that the second FIR is, therefore, based on a fresh act of fabrication and use of forged documents. The State and the informant further rely on statements of some of the alleged executants from the Chauhan family, who deny having signed the 1975 power of attorney or the 2007 agreement. They also rely on the statement of one of the principal witnesses, Smt. Chhotu alias Rekha, who denies visiting Thane on the date of execution and registration and denies having executed or presented the deeds in question. It is also pointed out that some cheques issued in favour of vendors have been dishonoured and that criminal proceedings for dishonour have been launched in Rajasthan. On this basis, it is submitted that there is deliberate fabrication and that custodial interrogation of the applicants is necessary. There is also an allegation that the applicants obstructed the investigation team in Rajasthan. Reference is made to entries in the station diary showing that the local police had faced resistance while trying to record statements of some witnesses. On this basis, the State urges that the applicants are likely to influence witnesses and that their custodial interrogation is needed to unearth the full extent of the conspiracy.

7. The questions that arise at this stage are limited. This Court is not expected to conclusively determine the genuineness or otherwise of the documents of 1975, 2005 or 2007, or the legality of the subsequent deeds of 2025. Those are matters for trial and for the civil courts where title and contractual rights will fall for adjudication. The present enquiry is confined to whether, in the facts placed before the Court, custodial interrogation of the applicants is necessary and whether denial of anticipatory bail is warranted.

8. It is true that the prosecution has pointed out new circumstances, particularly the alleged power of attorney of 19

November 1975 and the alleged use of this document to support the 2025 registrations. At the same time, it is equally clear from a plain reading of the FIR and the material placed before this Court that the foundation of the prosecution case continues to be the same chain of title through the Chauhan family, the earlier power of attorney of 2005 and the agreement for sale-cum-development of 2007. Those documents form the bedrock of the dispute. They have already been the subject matter of the earlier FIR and of the civil suits. It is on their basis that the parties have been litigating ownership and development rights for years.

9. The introduction of the 1975 document is, at present, an assertion by one side and a denial by the other. Whether the document is fabricated, ante-dated, or genuine, is a question of evidence. The core allegation, however, remains that the applicants have tried to enforce an asserted title under the Chauhan family by entering into conveyances and development agreements with third parties. That allegation already exists in the earlier FIR. In such a situation, the overlap between the two FIRs is substantial. A second FIR in respect of the same incident or transaction is ordinarily not permissible and any further information has to be treated as part of the first investigation.

10. I am conscious that the present case involves a series of transactions spread over time. I, therefore, refrain from giving any final finding on the maintainability of the second FIR. That issue can be examined at an appropriate stage in proceedings under Section 482 BNSS or in trial. For the limited purpose of anticipatory bail, it is sufficient to note that the earlier order of this

Court, which has attained finality up to the Supreme Court, has already placed the dispute in a particular prima facie frame, namely, that the allegations are closely interwoven with civil claims of title and that the ingredients of the alleged offences are not free from doubt.

11. To this has now been added the circumstance that all three vendors under the agreement for sale dated 4 February 2025 have received a sum of Rs. 26 lakhs from the applicants. This fact is not disputed by the prosecution. The prosecution has pointed out that some cheques later stood dishonoured and that proceedings for dishonour have been initiated. That aspect may have its own legal consequences. But the fact remains that the vendors have accepted and retained substantial amounts as consideration under the very transaction which is now termed as part of a criminal conspiracy.

12. Payment and receipt of consideration by itself does not wipe out an offence of cheating or forgery, if otherwise established. However, in the context of an application for anticipatory bail, this factor assumes significance. It indicates that the parties have entered into a transaction in which rights in property have been asserted and consideration has passed. The civil court will decide who has a better title and whether the documents confer any valid interest. The criminal court will decide whether the documents are forged and whether there was dishonest intention from the inception. At this stage, the fact of part-performance of the contract and acceptance of money, when read with the earlier findings of this Court in the previous bail order, makes the case a fit one for granting protection against arrest.

13. The investigation in the present FIR is largely documentary. The main material consists of registered instruments, powers of attorney, agreements, revenue records and statements of the alleged executants. These documents are in the custody of public authorities or have already been seized. The applicants have remained available for investigation in the earlier FIR and are subject to conditions imposed by this Court and by the Supreme Court. The State has pointed to alleged obstruction in Rajasthan. The material on record presently shows that the local police have noted some resistance. This can be taken care of by imposing strict conditions and by directing the applicants to cooperate with the Investigating Officer and to remain away from the witnesses, rather than by denying anticipatory bail altogether.

14. The offences alleged are punishable with imprisonment up to seven years. They are undoubtedly serious offences involving allegations of forgery and cheating. Gravity of the offence is one factor. It is not the only factor. The settled tests for grant of anticipatory bail are whether the accused is likely to flee from justice, whether he is likely to tamper with evidence or influence witnesses, and whether custodial interrogation is necessary for effective investigation. The applicants have roots in society. They are already under the protective orders of this Court and of the Supreme Court in the earlier FIR. No material of abscondence is placed before me. The investigation is mainly document based. On the present record, custodial interrogation is not shown to be indispensable.

15. Having considered the rival submissions, the factual matrix, the nature of allegations, the overlap with the earlier FIR, the prior protection granted by this Court and confirmed by the Supreme Court, and the admitted receipt of Rs. 26 lakhs by the vendors of the agreement for sale dated 4 February 2025, I am of the view that the applicants have made out a case for grant of anticipatory bail, subject to stringent conditions.

16. Hence, the following order:

(i) In the event of arrest of the applicants in connection with C.R. No. 336 of 2025 registered with Nayanagar Police Station for offences under Sections 318(4), 336(2), 336(3), 338, 340(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, they shall be released on bail on each of them executing a personal bond in the sum of Rs. 50,000 with one or two sureties in the like amount.

(ii) The applicants shall report to the Investigating Officer on such dates and at such times as may be notified in writing for the purpose of investigation, as and when called.

(iii) The applicants shall not directly or indirectly induce, threaten or promise any witness, including any member of the Chauhan family or any vendor or executant of the impugned documents. They shall not, in any manner, tamper with the evidence.

(iv) The applicants shall not contact the informant or her close family members, except through legal process.

(v) The applicants shall furnish their residential address and mobile numbers to the Investigating Officer and shall intimate any change thereof within forty eight hours.

(vi) The applicants shall not leave India without prior permission of the Trial Court. If they possess passports, they shall deposit the same before the Trial Court within one week.

17. It is clarified that the observations made in this order are confined to the consideration of these applications for anticipatory bail. They shall not influence the trial or any proceedings in the earlier or present FIR, nor shall they affect the adjudication of civil rights between the parties before the civil courts.

18. Subject to the above conditions, the applications stand allowed.

(AMIT BORKAR, J.)