



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (ABA) NO. 252 OF 2025

(Shri Deepak S/o Vitthal Prasad Dube & Anr.

Vs.

State of Maharashtra, Thr. Police Station Mankapur (City), Tah. & Dist.
Nagpur)

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. A.A. Naik, Senior Advocate a/b Mr. Anand Shinde, Advocate for the Applicants.

Mr. Neeraj Jawade, APP for the Non-applicant/State.

Mr. G.D. Dani, Advocate for the Complainant to assist the prosecution.

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 6th AUGUST, 2025

1. Apprehending the arrest at the hands of Police in connection with Crime No.122/2025 registered with Police Station, Mankapur, District Nagpur for the offences punishable under Sections 3(5), 318(4), 319(2), 335, 336(2), 336(3), 338, 340(2), 61(2) and 62 of the Bharatiya Nyaya Sanhita, 2023, the Applicants approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of the report lodged by one Vijay Jagatdhari Singh Thakur. As per his complaint he had entered into an agreement with one Kiran Raghtate in respect of purchase of plot No.30 out of Mouza Gorewada. The said Kiran purchased the said plot from one Netaji Co-operative Housing Society on 10.08.1993 and the

present Applicant No.1 was acting as President of the said Society. When the Applicant No.1 was making enquiry regarding the said plot it was revealed that the present Applicant No.1 entered into the sale deed with the present Applicant No.2 regarding plots sold by him to Kiran Raghtate as well as to other persons. When Kiran and other persons had made an application for entering their names on 7/12 extracts, the Applicants tried to raise an objection regarding the same. Thus, they were duped by the present Applicants.

3. Heard learned Senior Counsel for the Applicants who submitted that the crime is registered on the basis of the report lodged by the Informant, who is the prospective purchaser who has no *locus standi* to lodge the report. He further submitted that, the Applicant No.1 is the owner of Survey No.9/4 admeasuring 1 acre, which he had purchased on 05.08.1993. He submitted that, as per the allegation the present Applicants have sold out the land to Kiran Raghtate and the present Informant is the prospective purchaser who has decided to purchase the above said land from said Kiran Raghtate. He submitted that, in fact the present Applicants have not sold out the land. They are the owners of the said property. The said sale deed is executed by way of impersonation, and therefore, they had already filed the suit for cancellation of the said sale deed, which is pending before the Civil Judge Senior Division, Nagpur. He has also invited my attention towards the documents that are on record which show that the Applicant No.1 has purchased the said property by way of registered sale deed out of the Survey No. 9/4 admeasuring 1 acre out of 1.25 H.R. Thus, he submitted that

considering the allegations levelled against present Applicants, as far as the custodial interrogation is concerned, which is not required. In view of that he prays for releasing of the Applicants by confirming the ad interim protection.

4. Learned APP strongly opposed the said Application and submitted that, during investigation the Investigating Agency has procured documents which shows that an agreement entered by the original owner with the Applicants in respect of the entire land, which was cancelled. Further the Investigating Agency has made communications with various Authorities including the Nagpur Improvement Trust regarding the offence committed by the present Applicants. As per the information received from Nagpur Improvement Trust, it was stated that the said proposal submitted by the Applicant No.1 in respect of Khasra Nos. 9/2, 9/3, 9/4 has been rejected on 03.05.2008. The said communication is relevant to show that the Applicant No.1 with criminal intention deliberately made a proposal in respect of properties which were not owned by him. The Investigating Agency has also inquired with the Registrar of Co-operative Societies regarding Netaji Co-operative Society through which the Complainant No.1 has entered into various transactions. The communication received from the office of the Registrar Co-operative Societies shows that no such society is in existence as per their records. The Investigating Agency therefore requires to make further investigation regarding the said Netaji Co-operative Society. He further submitted that, considering the *modus operandi* of the present Applicants, the Application deserves to be rejected.

5. Heard Mr. Dani, learned Counsel for the Complainant, also reiterated the said contentions and invited my attention towards the order passed by the Sub Divisional Officer, which shows that the mutation entry which was passed in favour of the present Applicants was cancelled. Against the same, the appeal was preferred and stay was granted and the stay is also vacated. The NIT has also stayed the proceedings as far as sanctioning of the layout is concerned. Thus, he submitted that the entire documents which are placed on record sufficiently shows that the Applicants are not the owners, the Society is also not in existence, by similar *modus operandi* the Applicant No.1 has executed the sale deeds concerned with the plots and now all the purchasers are coming forward before the Investigating Officer with their grievances, and therefore, custodial interrogation is required.

6. After hearing both sides and on perusal of the investigation papers, the agreement of sale which is on record between the present Applicant No.1 and the original owner Nathuji Hiran Raut, Sheshrao Nathuji Raut and Kishor Nathuji Raut is on record, which shows that the present Applicants entered into an agreement with the original owner to purchase one acre of land out of Survey No.9/4. The said agreement to sale is of dated 25.09.1998. In perusal of the said agreement to sale the sale deed was executed in favour of the present Applicants and thereafter the lands were divided into the plots.

7. Admittedly, some plots are already sold out by the

present Applicants to various customers. The said sale deeds are also on record. The communication by the Cooperative Registrar also shows that no such record is there as far as the registration of said Society is concerned. The proceedings are before the NIT as well as before the SDO as far as the rights of the parties are concerned. The order passed by the SDO also shows that, initially stay was granted in favour of the present Applicants which was subsequently vacated, and the proceedings are still pending. Thus, considering the entire investigation papers, the nature of the dispute shows that the present Applicants had purchased the said properties bearing K.No. 9/2, 9/3 9/4, which were subsequently converted into the plots and the plots are sold out to various persons, they are the purchasers and the interveners in the present Application. The sale deeds are also on record. Thus, the entire investigation revolves around the documentary evidence. No question is whether the physical custody of the present Applicants is required for the purpose of investigation. It is true that, merely because custodial interrogation is not required is not a sufficient ground to grant anticipatory bail to the present Applicants but then prosecution has to show for what purpose the custodial interrogation of the present Applicants, is required.

8. As observed earlier that the entire investigation revolves around the various documents which are already collected by the Investigating Agency, various proceedings are also going on before the various authorities, the civil suit is also filed by the present Applicants before the competent Court. As far as the cancellation of sale deed is concerned, as

per the contention of the present Applicants is concerned, four sale deeds are got executed by the purchasers. Thus, the entire issue whether the sale deeds executed in favour of the purchasers is to be ascertained by the competent Court on the basis of the evidence. As far as the custodial interrogation is concerned, considering the entire documents are already collected during the investigation is not required. In view of that, the *ad interim* protection granted in favour of the present Applicants deserves to be confirmed. Accordingly, I proceed to pass following order:

ORDER

- i. The Application is **allowed**.
- ii. The *ad interim* protection granted to the present Applicants by order dated 16.04.2025, is hereby confirmed on the condition that, they shall attend the concerned Police Station once in a week i.e. on every Monday between 10.00 a.m. and 01.00 p.m. and shall cooperate with the Investigating Agency.
- iii. The Applicants shall not deal with any of the properties till the culmination of the trial. Any of the properties as far as the Survey Nos. 9/2, 9/3, 9/4 and the plots therein till the culmination of the trial.

- iv.** The Applicants shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
 - v.** The Applicants shall attend the proceeding before the Trial Court without seeking any exemption unless there are exceptional circumstances.
- 9.** Pending application/s, if any, shall stand disposed of accordingly.

(URMILA JOSHI-PHALKE, J.)