

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

Cri. Anticipatory Bail Application No. 845 of 2026

Ganesh Baban Gite

Age 41 years, Occu: Business,

Residing at : Row House No.1,

Pokar Colony, Kala Nagar,

Dindori Road, Mhasrul, Nashik.

... Applicant

Versus

The State of Maharashtra

I/O Sarkarwada Police Station, Nashik

... Respondent

Mr Vivek Salunkhe a/w Mr Jaydeep Vaishampayan, Mr Raviraj
Paramane, for the Applicant.

Ms Sangeeta E Phad, APP, for the Respondent / State.

PI Dr Anchal Moagal, Crime Branch, Nashik.

Coram: R.N. Laddha, J.

Date: 18 April 2026

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.64 of 2026, registered at Sarkarwada Police Station, Nashik, for offences punishable under Sections 335, 336(2), 336(3), 337, 338 and 318(4) read with 3(5) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. The first informant in the present crime is the Deputy

Superintendent of Land Records, Nashik. According to the prosecution, by virtue of Government Notifications dated 8 November 2013 and 9 January 2017, every residential development project exceeding 4,000 square meters within the jurisdiction of the Nashik Municipal Corporation was required to reserve 20% of its land for housing of Economically Weaker Sections ('EWS') and Low-Income Groups ('LIG'), to be allotted through MHADA. In order to circumvent this statutory obligation, it is alleged that the landowners, project developers, and their unknown associates prepared fabricated Hissa forms and forged survey maps to show sub-divisions of large parcels of land as if they had been lawfully effected prior to the notification of 8 November 2013. These counterfeit records bore forged signatures and seals and were submitted to the Tehsil office to create false and bogus separate 7/12 extracts without any lawful survey measurement. Upon discovery of irregularities, the Collector, Nashik, by an order dated 30 September 2024, constituted an inquiry committee. The inquiry committee examined 108 cases of land fragmentation and found that, in 49 instances, including land bearing Survey No.70/1 at Gangapur owned by the applicant, fraudulent survey maps and fabricated sub-division records had been used to mislead authorities. It is further alleged that such acts amount to a calculated deception and forgery, intended to cheat

the State Government, cause wrongful loss to MHADA, the Revenue and Land Records Departments, and frustrate the object of the Inclusive Housing Policy.

3. Mr Vivek Salunkhe, the learned Counsel appearing on behalf of the applicant, while asserting the applicant's innocence, submits that the applicant has been falsely implicated in the present crime. It is contended that the allegations levelled against the applicant are vague, bereft of material particulars, and lacking in specificity, and do not disclose the commission of any cognisable offence. The FIR fails to attribute any specific overt act to the applicant that constitutes an offence.

4. The learned Counsel further submits that one Kanubhai Thakkar and Jhyoti Thakkar were the original owners of land bearing Survey No.70/1 situated at Gangapur. By an order dated 16 December 2016, passed in RTS Appeal No.93 of 2016, the Tehsildar, Nashik, sanctioned a family partition in respect of the said land. Pursuant thereto, the Thakkar family caused a sub-division of the land through the competent government authority, and the relevant entries were duly mutated in Form Nos.4 and 12 in the village land records in the year 2017. Consequent to such sub-division, Survey No.70/1

was divided into five parts, namely Survey Nos.70/1/1 to 70/1/5, each admeasuring approximately 0.24 hectares, and owned by Kanubhai Thakkar, Jhyoti Thakkar, Dhara Thakkar, Dolly Thakkar and Dhawal Thakkar, respectively. However, owing to an inadvertent omission, the corresponding changes were not reflected in the 7/12 extract.

5. It is further submitted that on 20 January 2023, the Thakkar family applied to the Tehsildar for the conversion of the said agricultural land to non-agricultural use. In the interregnum, the applicant approached the Thakkar family, expressing his intention to purchase the portion of land belonging to Dolly Thakkar, i.e., Survey No. 70/1/4. However, as the Thakkar family resolved to alienate the entire land parcel, the applicant, along with three other purchasers, purchased the entire property under a registered Sale Deed dated 27 March 2023. Thereafter, by an order dated 13 April 2023, the Tehsildar, Nashik, granted permission for the conversion of the land from agricultural to non-agricultural use. The applicant then preferred an application for the issuance of a separate 7/12 extract for Survey No.70/1/4. Pursuant thereto, Mutation Entry No.25300 dated 10 January 2024 came to be effected, recording the applicant's name in the 7/12 extract of the said survey number. Thereafter, the

applicant approached the Nashik Municipal Corporation and sought approval for a tentative layout on the said land. By an order dated 7 April 2025, the Corporation approved the tentative layout. Owing to the applicant's inability to undertake development independently, the said land was subsequently sold to M/s Happy Home Developers under a registered Sale Deed dated 8 July 2025.

6. On the strength of the aforesaid sequence of events, the learned Counsel contends that the allegation of forgery, as sought to be imputed in the FIR, is wholly untenable. The subdivision of the original Survey No.70/1 was carried out pursuant to a valid and subsisting order passed by the Tehsildar, Nashik, which has neither been challenged nor set aside and has now attained finality. The corresponding entries in Form Nos.4 and 12 were effected by the office of the land survey authority itself, and certified copies of the survey map and relevant records were duly obtained from the competent authority on 3 May 2023. With respect to the contention advanced by the prosecution that the records in question are not traceable within the office of the land survey authority, the learned Counsel submits that the mere non-availability of a document in official records after the passage of several years from its issuance does not, *ipso facto*, render such document forged.

The mere report of the concerned office that the document is not traceable cannot, in law, be equated with a finding of forgery. A document can be characterised as forged only where specific allegations are made that it falls within the definition of a 'forged document' as contemplated under Section 335 of the BNS. In support of this proposition, reliance is placed upon the decision in *Vandana Jain vs The State of Uttar Pradesh, 2026 INSC 192*.

7. Mr Salunkhe further contends that the applicant merely applied for approval of a tentative layout, which, by its very nature, is provisional and subject to scrutiny and final sanction by the competent authority. The development process was at a preliminary stage, and in the event of any non-compliance with applicable Government Notification or statutory provisions, the authority retains the power to refuse final approval. The mere submission of a proposal for tentative layout does not, in law, constitute any offence as alleged in the FIR. It is further submitted that the applicant is no longer the owner of the subject property, having sold the same in July 2025. In the event of any discrepancy in the tentative layout proposal, the concerned authority is at liberty to address the same with the subsequent purchaser and take appropriate corrective measures, and at present, in the absence of a final approved layout, the

allegations are premature. The learned Counsel also points out that in a challenge to the present FIR, the co-accused preferred Criminal Writ Petition Nos.1567 of 2026, 1412 of 2026, 1568 of 2026 and (st) 7537 of 2026, wherein this Court vide order dated 17 April 2026, directed the prosecution not to take any coercive steps.

8. Lastly, it is asserted that the prosecution's case is founded entirely on documentary evidence and does not warrant the applicant's custodial interrogation. The applicant has deep roots in society, is not a flight risk and is ready to cooperate with the investigation and abide by any conditions that this Court may deem fit to impose, including furnishing his specimen handwriting and signatures, if so required.

9. On the other hand, Ms Sangeeta Phad, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail, citing the seriousness and gravity of the offence. It is submitted that the case arises out of a large-scale land scam, and a Special Investigation Team has also been constituted. The Government Notification dated 8 November 2013 mandates that landowners/ developers surrender 20% of the land in projects exceeding 4000 square meters to MHADA for EWS and LIG

housing. The learned APP contends that the applicant, in connivance with the co-accused, deliberately circumvented the requirement to handover 20% of the land by creating artificial sub-divisions of the larger parcel of land through fabricated survey maps, forged documents, seals and manipulated layout plans to portray the projects as being below the prescribed threshold. Reliance is placed upon the decision in *Pratibha Manchanda vs. State of Haryana, (2023) 8 SCC 181*, to contend that though the right to liberty and presumption of innocence are vital, the gravity of the offence must also be considered while deciding the anticipatory bail application.

10. Ms Phad further submits that the investigation is ongoing, and custodial interrogation of the applicant is necessary to obtain specimen handwriting and signatures. The learned APP also expresses apprehension that, in the event the applicant is granted bail, there exists a substantial likelihood that he may tamper with evidence or exert influence over witnesses.

11. This Court has given anxious consideration to the rival submissions canvassed across the Bar and perused the records.

12. At the outset, the allegations in the FIR appear to be general and omnibus towards all landowners and developers who allegedly fabricated sub-division records to evade the

statutory requirement to earmark a portion of land/ property for EWS and LIG housing. However, at the same time, the prosecution itself, as reflected from the record, distinguishes between two classes of accused: first, those allegedly responsible for the act of illegal sub-division at the stage of ownership; and second, those who subsequently applied for and obtained construction permissions or layout approvals based on such sub-divided parcels. In this context, the core of the alleged offence lies in the fabrication of Hissa forms, the falsification of survey maps, and the manipulation of land records to create artificial sub-division. The applicant's role appears to be confined to obtaining a tentative/provisional layout approval from the competent authority. Furthermore, there is no material on record to suggest that the applicant had knowledge of any illegality in the underlying records or that he engaged in misrepresentation, suppression of material facts, or collusion so as to secure an unlawful advantage or defeat statutory requirements. Thus, the allegations against the applicant appear to be incidental to his subsequent dealings with the property rather than demonstrative of direct involvement in the alleged acts.

13. The documents on record indicate that the sub-division of Survey No.70/1 emerges from an order dated 16 December

2016 passed by the competent Tehsildar in RTS proceedings, followed by mutation entries effected by the revenue authorities upon application by the erstwhile owners. Significantly, the order of the Tehsildar has attained finality and no proceedings are initiated to challenge the findings of the Tehsildar. Consequently, in the absence of any challenge to the underlying RTS order or mutation entries, these official acts carry a presumption of validity at this stage. Notably, these acts precede the applicant's alleged involvement and are subsequent to the Government Notification dated 8 November 2013. Thereafter, the applicant appears to have acquired the property in 2023 through a registered conveyance, after which he pursued statutory permissions in the ordinary course, including non-agricultural conversion and a tentative layout approval. In this regard, the competent authority's letter dated 7 April 2025 demonstrates that the tentative layout approval was granted only for demarcation purposes. Pertinently, the final layout of the land in question has not been approved to date. Moreover, the prosecution has failed to attribute any specific overt act to the applicant that would, *prima facie*, constitute the ingredients of the alleged offences. *Prima facie*, the FIR does not disclose the precise role played by the applicant in the alleged preparation or use of forged documents.

14. The prosecution's contention that certain documents are not traceable in the official records does not, by itself, establish that the documents are forged. In this connection, as held in *Vandana Jain (supra)*, mere non-availability of documents in official custody cannot *ipso facto* lead to an inference of forgery in the absence of specific material demonstrating fabrication within the meaning of law. Therefore, the essential ingredients of forgery are not clearly made out at this stage. On the contrary, the material on record suggests that the applicant entered into the transaction as a purchaser under a registered sale deed and thereafter applied for mutation and tentative layout approval through lawful channels. The act of seeking a tentative layout approval, which is inherently provisional and subject to scrutiny by competent authorities, does not, in itself, constitute a criminal offence. The applicant's conduct *prima facie* appears to be consistent with that of a *bona fide* purchaser acting on the basis of official records. Additionally, it is undisputed that the applicant has already sold the subject property to a third party in July 2025. Therefore, the applicant is no longer in control or possession of the land. In consequence, this circumstance reduces the likelihood of the applicant interfering with the subject matter of the alleged offence or causing further prejudice to the investigation.

15. The prosecution's case is predominantly founded on documentary evidence, which is already in the custody of the investigating agency. No recovery is sought to be effected from the applicant. In such circumstances, custodial interrogation is not warranted, particularly when the applicant has expressed willingness to co-operate with the investigation and furnish specimen signatures and handwriting as required. It is brought to the notice of this Court that in respect of similarly situated co-accused, this Court has, in its writ jurisdiction, by an order dated 17 April 2026, directed that no coercive steps be taken.

16. Admittedly, while the allegations pertain to economic offences of some seriousness, it is well settled that the gravity of the offence alone cannot be decisive. In the facts and circumstances of the present case, the balance tilts in favour of protecting the applicant's liberty, particularly when the prosecution has not demonstrated the necessity of custodial interrogation. In view of the foregoing, this Court is of the opinion that the applicant has made out a case for grant of anticipatory bail. The application, therefore, deserves to be allowed, subject to appropriate conditions to ensure co-operation with the investigation. Hence, the following order:

ORDER

- (i) In the event of the applicant's arrest in

CR No.64 of 2026, registered at Sarkarwada Police Station, Nashik, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant, himself or through any other person, shall not tamper with the evidence or influence witnesses.

(iii) The applicant shall attend the concerned Police Station as and when required and cooperate with the investigation, including providing his handwriting and signature specimen.

17. The application stands disposed of accordingly.

18. It is clarified that the observations made herein are confined to determining the applicant's entitlement to pre-arrest bail only.

[R.N. Laddha, J.]