

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1178 OF 2014

Sayyad Jilani S/o Nadeali .. APPLICANT
Versus
1]State of Maharashtra
2]Sayyad Sardar S/o Sayyad Abdulla
3]Sayyad Kalandar s/o Sayyad Absdulla .. RESPONDENTS

...
Shri Sk.Mazhar A. Jahagirdar,Advocate for applicant
Shri A.S.Shinde,APP for respondent State
Shri S.S.Kazi,Adv. For respondent nos.2 and 3.
...

**CORAM : V.M.DESHPANDE,J.
DATED : 9TH JULY, 2015**

ORDER :-

Heard Shri Jahagirdar, learned counsel for applicant, Shri Shinde, learned A.P.P. for respondent no.1 State and Shri Kazi, learned counsel for respondents no.2 and 3.

2] The present application is filed u/s 439(2) of Cr.P.C. for cancellation of anticipatory bail granted in favour of respondents no.2 and 3 by learned Additional Sessions Judge, Parbhani in Criminal Bail Application No.808/13 by which the learned trial Court has granted anticipatory bail in favour of non applicants 2 and 3 in Crime No.239/2013 registered with Nanalpeth police station, Dist.Parbhani for offences punishable u/s 420, 468, 471 r/w. 34 of I.P.C.

3] According to the first informant, he is Inamdar of Masjid Shah Inayat Kalandar and he was offering services to the said holy place since his forefathers. According to the allegation that the present non applicants have forged the document showing that they are the heirs of Nabi Shah grand father of the present first informant.

4] The order passed in the present case dated 4/2/15 shows that the respondents no.2 and 3 in affidavit filed by father of the present applicant in the year 1967 to the effect that Nabi Shah has left two sons who include Sayyad Abdulla the predecessor of the present respondents and therefore, on 4/2/15, the matter was adjourned at the instance of the counsel for applicant to state that said Sayyad Abdulla is not predecessor of the present respondents.

5] There is nothing available on record presently showing that Sayyad Abdulla is not predecessor of the present respondents.

6] There is no dispute to the statement made by learned counsel for respondents no.2 and 3 that in a civil dispute, the succession has been held in favour of the present respondents no.2 and 3. In that view of the matter, the discretion exercised by learned trial Court in favour of the non applicants no.2 and 3 is proper, specially when the learned trial Court has observed as under in the impugned order :

“The petitioners have produced the judgment and order of Ad-hoc Addl. Sessions Judge, Parbhani in Criminal Revision No.43/2007 by which the revision against accepting the 'C' summary filed by the police was dismissed. Thus, this appears to be a second round of complaint.

Moreover, the issue involved in this case is; whether the petitioner is of the caste of "Madari" or not. This issue can be decided only by the competent authority. So long this issue is not decided by the competent authority, it cannot be said that the petitioners have committed forgery. This appears to be a dispute of civil nature. If the complainant has any grievance, he can approach the competent authority. Thus, the dispute being of civil nature, custodial interrogation of the petitioners is not necessary."

7] It is not the case of learned A.P.P. that the present respondents have flouted the conditions imposed upon them while granting anticipatory bail in their favour on 4/12/2013.

8] No case for interference is made out. Dismissed.

(V.M.DESHPANDE,J.)

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