

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3334 OF 2015

[Shaikh Yousuf s/o Shaikh Ayyub and others vs The State of Maharashtra]

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or
directions and
Registrar's orders

Court's or Judge's orders

Shri U.N.Shete, advocate for applicants
Smt. S.G.Chincholkar, A.P.P. for respondent/State
Shri Shaikh Mazhar A. Jahagirdar, advocate for first informant
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CORAM : **V.M.DESHPANDE, J.**
DATED : **14th July, 2015**

PER COURT :-

- 1] This is an application for anticipatory bail, since the applicants are apprehending their arrest in connection with Crime No. 62 of 2015, registered at MIDC Waluj police station, District Aurangabad, for the offences punishable under Sections 420, 468, 471, 504, 506 r/w 34 of the Indian Penal Code.
- 2] The application is filed by three applicants. Applicant no. 2 is the wife of applicant no.1; whereas applicant no.3 is the brother of applicant no.2.
- 3] At the out set, learned counsel for the applicant Shri U.N.Shete, learned counsel submits that he has instructions to withdraw the application for anticipatory bail on behalf of applicant no.1-Shaikh Yousuf s/o Shaikh Ayyub. Prayer accepted.
- 4] There exist a house property, situated at Mauje Pandharpur of District Aurangabad. The said house property is numbered as 994/2 in the Grampanchayat record. The said property was purchased by first informant Imran s/o Latif

Momin from Meena Rajendra Udde, resident of Pravara Sangam, Taluka Newasa, District Ahmednagar on 25.3.2013 for a valuable consideration of Rs.6,56,000/-. The sale deed is duly registered with the office of the Sub-Registrar at Sr. No.1002/1/9. In the said registered sale deed, the present applicant no.1 was signatory as a witness. The executant of the said sale deed handed over the possession of the said house property in favour of the first informant. Applicant no.1 Shaikh Yousuf is the friend of first informant. The first informant is not resident of Mauje Pandharpur. He resides at Jamkhed, Taluka Ambad, District Jalna.

5] The first information report is lodged on 13.3.2015 with the police station. The first information report discloses that in the month of September, 2014 when the first informant had been to Grampanchayat office, Pandharpur for obtaining the revenue record i.e. Namuna No.8, that time Gram Sevak of the said Grampanchayat informed the first informant that Shaikh Yousuf Shaikh Ayyub (applicant no.1) has purchased the said property. Therefore, inability was expressed by the said Gram Sevak for giving Namuna No.8 to the first informant. According to the first information report, when he saw the sale deed he was shocked. The said sale deed was not a registered document, but it was executed on a bond of Rs.100/- and on the basis of the said bond, revenue entry is taken in favour of applicant no.1.

6] The role of applicant nos. 2 and 3 from the investigation papers is clear that they have signed the said notarised document, dated 5.8.2013 as a witness. The statement of the Notary is also available in the investigation papers. That shows that the Notary is not remembering as to whether on the date when the document was notarised applicant nos. 2 or 3 were present.

7] Looking to the nature of accusation made in the first information report, it appears that everything revolves around applicant no.1 Shaikh Yousuf s/o Shaikh Ayyub. There are no allegations in the first information report, nor there is anything available in the investigation papers that applicant nos. 2 and 3 had any active role of creating the alleged document. In that view of the matter, custodial presence of applicant nos. 2 and 3 is not warranted. That leads me to pass following order.

ORDER

- (i) Application is partly allowed.
- (ii) Application of applicant no.1-Shaikh Yousuf s/o Shaikh Ayyub is dismissed as withdrawn.
- (iii) Application of applicant Nos. 2 and 3 is allowed.
- (iv) Applicants No.2-Asiya Shaikh w/o Shaikh Yousuf and No.3-Shaikh Mahboob s/o Sk.Nawab, be released on anticipatory bail, in connection with Crime No. 62 of 2015, registered at MIDC Waluj police station, District Aurangabad, for the offences punishable under Sections 420, 468, 471, 504, 506 r/w 34 of the Indian Penal Code, on they each executing P.R.bond of Rs.5,000/- with one solvent surety in the like amount by each of them.
- (v) The interim order, dated 30.6.2015 in so far as applicant no.1-Shaikh Yousuf is concerned, stands vacated.
- (vi) Application is disposed of.

(V.M.DESHPANDE, J.)

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