

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.4101 OF 2015

Namdeo s/o Kundlik Waghmare ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr V.D. Sapkal, Advocate for applicant;
Mr R.P. Phatke, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 27th August, 2015

ORAL ORDER :

This is an application under section 438 of the Code of Criminal Procedure, seeking pre-arrest bail, in connection with C.R. No.M-I-96 of 2015, registered with Police Station, Waluj, Tq. Gangapur, District Aurangabad, for offences punishable under section 167, 420, 464, 465, 467, 468 and 470 of the Indian Penal Code, pursuant to the order dated 20th July, 2015, passed by the Judicial Magistrate First Class, Gangapur, in Misc. Criminal Application No.288 of 2015.

2. It is the case of the prosecution that the property of which details are entered at sr. nos.200 and 201 in the register maintained by the Grampanchayat was initially mutated in the name of predecessor of Mahavir Amarchand Gangwal, however, the same, some time in 2004,

came to be mutated in the name of one Mr Ekade. According to the prosecution, the complainant Mahavir alleged that there was an order dated 11th July, 2014, passed by the Block Development Officer, Panchayat Samiti in his favour, directing change in the entry nos.200 and 201 in his name. It is further alleged by the prosecution that, instead of complying with the said order, the present applicant has entered "disputed property" as against the said entry and demanded an amount of Rs.2 Lacs from Mahavir for carrying out correct entries." As such, the crime in question came to be registered.

3. Learned Counsel appearing on behalf of the applicant, while making out a case for pre-arrest bail, has invited my attention to the resolution dated 31st July, 2014, passed by the Grampanchayat, pursuant to the above referred order dated 11th July, 2014, directing the present applicant to take entry in the registered as the disputed property, as the said property was mortgaged to a nationalized bank by Mr Ekade, i.e. the person in whose name the same stood mutated. Learned Counsel would further urge that the applicant himself has admitted that subsequently, the entry came to be changed in the name of the complainant Mahavir on 20th October, 2014, pursuant to the order dated 13th October, 2014, passed by the Block Development Officer Class-1, Panchayat Samiti, Gangapur. He would urge that there is no question of this applicant playing any fraud or demanding any bribe in the matter, as according to him, he was duty

bound to follow the order passed by the competent authorities.

4. Perusal of the reply filed by the learned Addl. Public Prosecutor reveals in paragraph 7, as under :-

“I further say and submit that, taking into consideration the developments and since investigation is not completed the deponent has not reached to the conclusion either to file final report for the offences punishable under section 167 of IPC or B summary report to the Ld. Magistrate. I say and submit that, after completion of the investigation necessary report will be submitted in accordance with the provisions of law. “

5. Apart from above, it is required to be noted that the entire record in relation to the property in question, particularly that of entry at sr. nos.200 and 201 is already available with the Grampanchayat and the order of correction was already complied with by the present applicant.

6. In my opinion, the custodial interrogation of the applicant will be of no consequence.

7. The applicant, being a public servant, will be available for further investigation. In view thereof, I pass the following order :-

Criminal Application stands allowed.

In the event of arrest of the applicant, in connection with C.R. No.M-I-96 of 2015, registered with Police Station, Waluj, Tq. Gangapur, District Aurangabad, for offences punishable under section 167, 420, 464, 465, 467, 468 and 470 of the Indian Penal Code, he be released on bail, on furnishing P.R. Bond of Rs.10,000/- with one surety of like amount. The applicant shall attend the concerned police station, initially for three days, between 10.00 a.m. and 11.00 a.m. and thereafter as and when called for by the Investigating Officer.

(N.W. SAMBRE, J.)

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