

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

CRIMINAL APPLICATION NO.5131 OF 2015

Shrikant s/o Kishanrao Bankar,
Age 30 years, Occu. Service as
Gramsevak, R/o Masalga,
Taluka Ausa, District Latur

..Applicant

Versus

The State of Maharashtra,
through Police Station, Bhada,
District Latur

..Respondent

Mr Sachin S.Deshmukh, Advocate for applicant
Mr G.O. Wattamwar, A.P.P. for respondent

CORAM : N.W. SAMBRE, J.

DATE : 15th October 2015

PER COURT

Heard.

2. This is an application by the Gramsevak seeking pre-arrest bail in the matter of registration of crime against him pursuant to order passed by the learned Magistrate on the complaint case filed against him by the owner of the property, details of which are mentioned in the first information report.

3. It is required to be noted here that there already exists the civil suit in between the complainant and the occupier of the premises vide Regular Civil Suit No.121/2014 and in the said suit, the learned trial Court has passed an order on 5th April 2014 allowing an application for injunction restraining the complainant from creating obstruction into the possession of the plaintiff namely Shivaji Madan Bhojane, who happened to be in possession of the suit property.

4. The fact remains that there already exists civil dispute in between the complainant and the occupier of the premises.

5. Learned Counsel for the applicant while making out the case for grant of pre-arrest bail would urge that the nature of dispute in the present case is civil, which is pending before the competent Court vide Regular Civil Suit No.121 of 2014. He would further urge that the resolution was passed by the Village Panchayat on 5th August 2013 for which the applicant took an objection in mutating the name of the plaintiff as owner of the property which was duly considered and the name of plaintiff in the suit referred supra is continued as an occupier and name of defendant as an owner. Resolution to that effect dated 5th August 2013 is also placed on record before this Court. According to him, the applicant has no criminal intention in carrying out the mutation entry based upon the resolution passed by the Village Panchayat.

6. While opposing the application, learned A.P.P. would urge that before carrying out mutation, approval of the Collector ought to have been taken in the matter, as the property in question was allotted by the revenue authorities. He would further urge that the entire transaction in between the plaintiff and defendant is itself under cloud and the applicant herein as an occupier has to get his name mutated in revenue record.

7. According to learned A.P.P., there is strong prima facie case against the present applicant and as such, prayed for rejection of present application.

8. From the above contentions, it appears that there exists civil dispute pending before the Court of Civil Judge, Junior Division, AUSA between the complainant and the occupier of the property. In the said suit there operates injunction in favour of the occupier in whose favour there is mutation entry carried out by the applicant pursuant to the resolution passed by Village Panchayat, as an occupier of the property.

9. The fact from the record depicts that the occupancy in the property is since ten years and the said issue can be dealt with by the learned Magistrate.

10. So far as the case in hand is concerned, in my opinion, no attribution, particularly criminal intention can be inferred as against the applicant of commission of crime. In view of above referred background, it will be appropriate in my opinion to release the applicant on bail. As such, I proceed to pass the following order:

(I) The applicant Shrikant s/o Kishanrao Bankar be released on bail in connection with Crime No.65/2015 registered at Bhada Police Station, Taluka AUSA, District Latur, for offences punishable under Sections 420, 468, 471 read with sec. 34 of Indian Penal Code, upon

furnishing P.R. bond of Rs.15,000/- (Rs. Fifteen thousand) with one surety in the like amount;

(II) The applicant shall attend the concerned Police Station initially for three days from 10.00 am to 11.00 am and thereafter as and when called by the investigating Officer;

11. Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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