

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6568 OF 2014

Popat s/o. Gajanan Kokate
and Anr.

....Applicants.

Versus

The State of Maharashtra

....Respondent.

Mr. N.B. Narwade, Advocate for applicants.

Mrs. M.A. Deshpande, APP for State.

CORAM : T.V. NALAWADE, J.

DATED : 6th January, 2015.

ORDER :

1. The application is filed for relief of anticipatory bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The crime is registered on the basis of report given by one Shivaji Dalvi, resident of Chincholi Patil, Tahsil and District Ahmednagar for offences punishable under sections 420, 419, 467, 471, 34 etc. of I.P.C. He is owner of land Gat No. 523 admeasuring 4 Hectors 67 R. and according to him, his step brother has no concern whatsoever with this land. The complainant realized that some false record was created behind

his back, when on 6.11.2014 present applicant and others came to his land and when they started digging the land with pokelane machine. He then collected the 7/12 extract and then he found that his step brother has created some false record of partition by making false representation and by producing some unknown person in his place to show that he was interested in effecting partition. It is the case of complainant that his signature was forged and false affidavit was prepared. It is contended that by using this record and by starting false proceeding under section 85 of Maharashtra Land Revenue Code, the partition was shown to be effected between him and step brother in respect of aforesaid land. It is contended that after making mutation on the basis of order made in the partition proceeding, a sale deed was shown to be executed in favour of applicant No. 2 of the area 1 Hector 42 R. and by sale deed dated 20.1.2014. It is his case that present applicants who are interested in the transaction had joined hands with step brother in creating aforesaid false record and false proceeding of partition and they have caused loss to him.

3. The learned counsel for the applicant submitted that they are not concerned with the record of partition, if any, created by step brother of the complainant and they are only

purchasers of some portion of property. The learned APP took this Court through the papers of investigation which include the statements of witnesses. There are statements showing that false affidavit was prepared by producing another person. There is statement to the effect that when the affidavit was prepared, there were no photographs on the affidavit and they were pasted subsequently. There is also statement of stamp vendor, showing that he had no occasion to see the complainant in whose name stamp was shown to be purchased. Similarly the proceeding of partition, which was started under section 85 of Maharashtra Land Revenue Code, show that surprisingly the proceeding was expedited, order was made within one month from the date of that application and mutation was also effected immediately. It appears that applicant No. 1 is dealing in lands and there are statements to that effect. The statements of witnesses show that applicant Nos. 1 and 2 were present all the while with the step brother of the complainant when the aforesaid record was created. There are even the statements of witnesses who have signed on the so called affidavit of complainant. In view of this record, it cannot be said that the applicants have no concern whatsoever with the aforesaid record which is apparently false as per the case of complainant. Such instances are increasing day by day. Custodial interrogation is must in such a case. As

right from the beginning they were there in creation of the record, this Court holds that it is not a fit case to grant relief of anticipatory bail.

4. In the result, the application stands rejected.

[T.V. NALAWADE, J.]

SSC/