

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 458 OF 2015
WITH
CRIMINAL APPLICATION NO. 343 OF 2015

Shri Harishchandra Shivram Thakre ... Applicant
vs.

The State of Maharashtra ... Respondent

Mr. Vijay Killedar for the applicant.
Mr. Kartik Garg i/b. Kazi Umar for the intervener.
Ms. R.M. Gadhavi, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 15th June, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending his arrest in Crime No.256 of 2014 registered at Hill Line Police Station against the applicant and others for the offences punishable under Sections 417, 420, 467,468,471 and 120B of the Indian Penal Code.

2. It is the case of the prosecution that on 19.11.2014, Mrs. Lata Belawale lodged a report at the police station that she happens to be one of the legal heirs of Krishna Mukaji Katawale. That the legal heirs in

consultation with each other and jointly had sold 52.1 Ares of agricultural land bearing Survey No.36/2 to Dr. Bhasme on 5.6.2014. That Dr. Bhasme had informed the complainant that the present applicant and his brother had been to his dispensary and threatened him of dire consequences as according to them, they had purchased the said land. Upon enquiries, it was revealed that vide Sale Deed dated 3.1.1980, Krishna Katawale executed a General Power of attorney in the name of Nathuram Shivram Thakare. That on the basis of the said power of attorney, the land was transferred/sold in the name of the present applicant and his brother. According to the complainant, her grandfather had expired on 1.1.1989. According to the complainant, the power of attorney was purportedly executed on 2.3.2007 i.e. after the demise of Krishna Katawale. On the basis of the said report, Crime No.256 of 2014 was registered.

3. Perused the copy of the power of attorney. It appears that it was executed in favour of the brother of the applicant. The applicant is not shown as a beneficiary of the said power of attorney. It appears that civil proceedings are pendig between the parties. The applicant and his brother had filed an application seeking inclusion of their names in the 7 x 12 extracts. The Naib Tahsildar, Ambernath, has filed a report after recording

the statement of Dr. Bhasme, wherein Dr. Bhasme has specifically stated that by virtue of the sale deed, he has taken the possession of the land. That had had engaged the services of the present applicant for the purpose of cultivation and that he has paid Rs.50,000/- by cheque to the present applicant for the services availed. The Naib Tahsildar has allowed the application dated 17.7.2014. Moreover, the cancellation deed has been filed and the applicant is not shown as a beneficiary. The dispute between the parties appears to be of a civil nature. It appears that custodial interrogation is not imperative. Hence, the application deserves to be allowed.

4. The observations made hereinabove are prima facie in nature and the learned Sessions Judge shall not be influenced by the above observations while deciding the application for quashing of FIR, or discharge application or at the time of trial.

ORDER

(i) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in

the like amount.

(ii) The applicant to report to the concerned police station as and when called.

Application stands disposed of.

5. Intervention application is heard, allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)