

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 605 OF 2015

Shankar Maruti Kolekar & Ors.	... Applicants
Vs.	
The State of Maharashtra	... Respondent

Ms. Savita A. Prabhune, Advocate for the applicants.
Ms. Veera Shinde, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **28th April, 2015**

P.C.:

This Application is moved for pre-arrest bail under section 438 of Cr. P.C. Applicant nos. 1 and 2 are brothers and applicant nos. 3 and 4 are sons of applicant no. 1. The applicant no. 5 is a daughter of applicant no. 1. The applicants are facing charges under sections 420, 465, 468, 471, 181, 182, 193(2), 199, 200 r/w. 34 of the Indian Penal Code in C.R. No. 589 of 2014 at Baramati City Police Station. One Chagan Jaywant Mahanawar gave a complaint to the police on 23rd December, 2014 that his father Jaywant had died in the year 1979. They owned a land at Palashi, Taluka Baramati. They are agriculturist. In March, 2012 applicant nos. 1 and 2 informed the complainant that they have purchased the land of the complainant and that they should have no concern with the land. The complainant and his family members were shocked and they told that as they have not entered any agreement with the applicant nos. 1 and 2, how they could say that the land is sold to them. The complainant and his

family members enquired the matter in the office of Sub-Registrar and found that their land was sold by Sale Deed bearing no. 352 of 2012 on 11th January, 2012 for Rs.5,40,000/-. They further found that it was executed between applicant no. 1 and 2 and their deceased father. Identification of their father was done by the applicant nos. 4 and 5 and applicant no. 3 and 4 were witnesses to the Sale Deed. The photograph which was affixed as Jaywant Mahanawar as the father of complainant was not of real Jaywant Mahanawar and it was a bogus Sale Deed. He, therefore, gave complaint against all the accused.

2. The learned counsel for the applicants/accused has submitted that the complainant has played fraud on the accused persons. She submitted that Jaywant Mahanawar, father of the complainant was alive in 2012 and he has entered into the Sale deed. He did not die in the year 1974. She submitted that there is a delay in lodging FIR, as the FIR was lodged in the year 2014 though the complainant and his family members had knowledge of the Sale Deed in the year 2012. She relied on the proceedings which were taken out by the complainant against the respondents in Appeal before the Revenue Authority wherein the Revenue Authority has given decision in favour of the applicants/accused.

3. Learned APP opposed the Application. She relied on the order

passed by the learned Additional Sessions Judge, Baramati on 18th April, 2015.

4. Perused the FIR and the papers which are submitted by the applicants/accused. This is the proceedings before the Revenue Court. The Revenue Court is not a Court which can go into the criminal aspect but is concerned with the Revenue Act. After going through the FIR so also the order passed by the learned Additional Sessions Judge, Baramati, it *prima facie* reveals that the fraud is played on the complainant by the applicants/accused. The applicants/accused have fraudulently entered into Sale Deed in the year 2012 when the father of the complainant was not alive but had expired in the year 1979. As the fact of death of father of the complainant is disputed by the learned counsel for the applicant/accused, this can be verified during investigation but *prima facie* when it is case of forgery, impersonation and making false statement before the public servant, it is not a case to grant pre-arrest bail. Hence, the Application for Anticipatory bail is rejected.

(MRS.MRIDULA BHATKAR, J.)