

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1530 OF 2014

1. Mr. Jagdish Laxmanrao Rathod)
2. Mr. Hansaram Changa Madhavi)
3. Mr. VinayakBhau Bhosale)..Applicants
vs.
The State of Maharashtra ... Respondents

WITH
CRIMINAL APPLICATION NO. 5 OF 2015

Mr. Hasuram Mahadu Mundkar .. Applicant

In the matter between:
Mr. Jagdish Laxmanrao Rathod & Ors. Applicants
vs.
The State of Maharashtra Respondent

ALONG WITH
ANTICIPATORY BAIL APPLICATION NO. 1540 OF 2014

Meenakshi Vilas Tandel ... Applicant
vs.
State of Maharashtra ... Respondent

WITH
CRIMINAL APPLICATION NO. 4 OF 2015

Mr. Hasuram Mahadu Mundkar ... Applicant
(Intervener)

In the matter between:
Mrs. Meenakshi Vilas Tandel ... Applicant
vs.
State of Maharashtra ... Respondent

Mr. Subhash Jha i/b. Chate & Associates, Advocate for the applicants in ABA No.1530 of 2014.

Ms. R.V.Newton, APP, for the respondent-State.

Mr. Sandesh Patil, Advocate for the applicant in ABA No.1540 of 2014.

Mr. Nilesh U.Masurkar for Intervenors (in APPP No.5/15 & 4/15).

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 21st January, 2015.

P.C.

Heard. These are the applications under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime M. Case No.4 of 2014 registered at Panvel City Police Station on 26.2.2014 for the offences punishable under Sections 403, 404, 405, 406, 417, 418, 420, 426, 463, 464, 465, 467, 468, 471, 504, 506 read with Section 34 of Indian Penal Code.

2. It is the case of the prosecution that on 5.12.2013, Hashuram Mahadu Mundkar filed a complaint before the Judicial Magistrate, First Class, at Panvel. On the basis of the said complaint, the learned Judicial Magistrate had passed orders under Section 156(3) of Cr.P.C. pursuant to which M. Case No.4 of 2014 was registered. It is alleging in the said complaint that the complainant is the legal heir of Mahadu Mundkar. His father had expired on 3.1.1997. His father was to receive a plot of land from CIDCO in lieu of the Land Acquisition proceedings in which Survey No.138 Hissa No.6 was acquired by the CIDCO

Authorities. He had been informed by the CIDCO officers to obtain a heirship certificate. On 9.4.2008, he had filed an application. According to him, the applicant in Criminal Application No.1540 of 2014 had informed him to file relevant documents. On 31.5.2011, the complainant was informed by the said accused No.9 that due to negligence, the file submitted by the complainant was missing. He was requested to file another application along with the true copies of the documents. On 24.8.2011, the complainant had allegedly submitted another file. They had enquired about the proceedings in the said file and were informed that the work is in progress. In the meanwhile, accused No.9 was transferred from the said post and accused No.10 was posted by way of transfer. According to him, the CIDCO Authorities had thereafter shown one Ganpat Goma Mundkar and Mrs. Shantabai Goma Gowari as the legal heirs of Mahadu Mondkar. According to the authorities, they had also received the claim along with heirship certificate from the said claimants. According to the complainant, the office-bearers of CIDCO i.e. the present applicants had cheated the complainant by accepting the heirship certificate of another claimants.

3. It is pertinent to note that on 18.1.2013, the original accused No.10 who was then officiating as Addl. Chief Land and Survey Officer had sent a communication to the 3rd Joint Civil Judge, & Judicial Magistrate, First Class, Panvel who had issued the heirship certificate informed the learned Court that

there are two claimants for the same plot. That one of the claimants had shown the date of death of Mahadu Joma Mundkar as 3.1.1997, whereas rival claimant had shown the date of death of Mahadu Goma Mundkar as 1.6.1990 and Goma Mahadu Mundkar as 14.10.1991. Original accused No.10 had specifically stated “In view of the rival claims, it is difficult to ascertain the genuineness of the certificate whether it is issued by the Hon'ble Court or otherwise”. The officer has further stated that the application was filed by Advocate Pradeep Mondkar vide the application dated 11.10.2012 in which he had specifically claimed to be the legal heirs of Mahadu Mundkar and were seeking allotment of land under 12.5% Scheme. The officer had, therefore, prayed that the photocopy of the certificate may be verified from the original record and inform the genuineness of the certificate. On 1.4.2013, CIDCO authorities i.e. the Addl. Chief Land Survey Officer had specifically stated that although the letter of intent has been issued in favour of the present complainant in the year 2009, in view of rival claims, the agreements executed in favour of the subsequent claimants are stayed. The CIDCO authority is holding departmental enquiry against the present applicants to find out the bonafides/malafides for reporting to the complainant that the file is missing without following due procedure of law.

4. Taking into consideration the fact that although the complainant was

aware of the said proceedings in the year 2012 as early as January 2013, the complaint is lodged in December, 2013. The order under Section 156(3) of Cr.P.C. is passed on 3.2.2014. The present applicants are still in service and are facing departmental enquiry. The applicant in Criminal Application No.1540 of 2014 has retired on superannuation on 31.10.2014. This Court is inclined to grant pre-arrest bail in favour of the applicants.

ORDER

(i) The applications are allowed. In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

(ii) The applicants shall co-operate with the investigating agency to the best of their capacity.

Both the applications stand disposed of.

5. Both the Intervention Applications are heard, allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)