

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1881 OF 2015

Prashant Janu Misal

...Applicant

Versus

The State of Maharashtra

...Respondent

.....

Mr. Pradip D. Gharat for the Applicant.

Mr. Rajesh More, APP for the Respondent -State.

Mr. Sanjeev Kadam i/b. Mr. Sachin K. Hande for the original complainant.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 16th DECEMBER, 2015.

P. C. :

This is an application for anticipatory bail filed by the aforesaid Applicant in apprehension of his arrest in Crime No.96 of 2015 registered with Revdanda Police Station, District-Raigad, for the offences punishable under sections 417, 420, 465, 467 and 479 r/w. 34 of the Indian Penal Code, 1860.

2. The case of the prosecution in brief is that the Applicant, who is a Sarpanch had issued a forged certificate dated 22.9.2012 certifying that Rajaram Narayan Jadhav, grandfather of the

complainant was a resident of village Korlai, despite knowing that said Rajaram Jadhav had expired in the year 1996. Based on the said forged document, property belonging to the said Rajaram Jadhav has been sold by one Govind Ramji Olambe in favour of one Suhasini Sunil Birwardkar. The complainant Nandkumar Mayekar lodged a complaint against the present Applicant and others for forging and creating false documents, cheating etc. Pursuant to the said complaint the aforestated crime came to be registered. Apprehending his arrest, the Applicant herein had filed an application for anticipatory bail before the Sessions Court, Raigad. Same came to be rejected by order dated 9.12.2015. The Applicant has therefore, filed this application for anticipatory bail by invoking provisions under section 438 of the Criminal Procedure Code.

3. Mr. Pradip Gharat, the learned counsel for the Applicant has submitted that one Govind Olambe and Suhasini Birwadkar, are the beneficiaries of the said sale transaction. He has submitted that the Applicant is no way connected with issuing said certificate. He has further submitted that question whether the said signature is a forged or not is a matter to be decided on merits. He has submitted that the present complaint is filed on the ground of political rivalry with an

intention to keep the Applicant away from ensuing elections.

4. The learned APP submits that a certificate dated 22.9.2012 was issued by the Applicant herein as a Sarpanch. He has stated that signature on the certificate does not tally with the signature on the other registers maintained by the Grampanchayat. He further submits that the Applicant is involved in committing the said crime and considering the gravity of the crime, the Applicant is not entitled for anticipatory bail.

5. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent -State. Present crime is registered pursuant to the FIR lodged by one Nandkumar Mayekar. Said Nandkumar Mayekar has alleged that his grandfather Rajaram Jadhav was the owner of the property under Survey No.59/5 of village Korlai. The complainant has stated that said Rajaram Jadhav expired on 27.12.1996 and upon his death he and his family members are in possession of the said land. The complainant has further stated that in the month of November, 2012, the Applicant herein had entered into the said property alongwith some workers and was leveling the said property and when

he questioned the Applicant informed him that he had purchased the land from Rajaram Jadhav. The complainant had alleged that thereafter upon making enquiry, he learnt that the Applicant herein had given a false certificate and that with the help of one Govind Olambe he had sold the said property to one Suhasini Birwadkar.

6. The complaint prima facie reveals that the complainant had came to know about the said fact in the month of November, 2012. The present complaint came to be filed on 21.11.2015. Delay in lodging the complaint itself, in my considered view, would not justify custodial interrogation. Furthermore, the question whether the certificate dated 22.9.2012 bears the signature of the applicant or not would be the subject matter of investigation and trial. The nature of the allegations and more particularly, the delay in lodging the complaint do not justify custodial interrogation. Hence in my considered view, the Applicant is entitled for anticipatory bail.

7. Under the circumstances and in view of the discussion supra, the application for anticipatory bail is allowed on the following terms and conditions:-

- (I) In the event of arrest of the Applicant in Crime No. 96 of 2015 registered with Revdanda Police Station, District-Raigad, the Applicant be released on bail on furnishing the bail bonds of Rs.20,000/-(Rupees Twenty Thousand only) with one surety in the like amount to the satisfaction of the learned Judicial Magistrate, First Class, Murud.
- (II) The Applicant shall report to the Investigating Officer for seven days from 10.00 a.m. to 1.00 p.m. from the date of receipt of this order.
- (III) The Applicant shall not interfere with the complainant or other witnesses in any manner.
- (IV) The Applicant shall not leave the jurisdiction of District-Raigad, till filing of the charge-sheet without prior permission of the learned Judicial Magistrate, First Class, Murud.

(ANUJA PRABHUDESSAI, J.)