

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2146 OF 2016

Lalita W/o Sunnil Rathod
Age : 47 years, Occu.: Household
R/o Padampura Colony,
Railway Station Road,
Aurangabad
Tq. & Dist. Aurangabad .. Applicant

Vs.

The State of Maharashtra
Through Kranti Chowk Police Station,
Aurangabad .. Respondent

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Mr. J.V. Deshpande, Advocate for the applicant
Smt. R.P. Gour, APP for the respondent-State

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CORAM : N.W. SAMBRE, J.
DATE : 10/06/2016

ORAL ORDER :

Heard.

2. Pursuant to judicial order passed by 3rd
Joint Civil Judge Senior Division, Aurangabad on
February 1, 2016, directing the Assistant
Superintendent to report the matter to the Police
Station in the matter of practising fraud on the

Court and in the judicial proceedings particularly in the matter of impersonation, crime no. 118 of 2016 came to be registered on February 1, 2016 for the offences punishable under section 417, 465, 468, 471 read with 34 of the Indian Penal Code.

3. The said order came to be passed on the application bearing MARJI No. 942 of 2015 preferred by one Pooja and others in which the present applicant is shown to be applicant no.5 for issuance of legal heirship certificate, as Gopal Dagdudas Rathod, father of the first applicant - Pooja has expired on 24/2/2014. The legal heirship certificate was in relation to certain properties and it is prayed that the same be issued in favour of applicant no.2 and one Sudha Gopal Rathod.

4. While trying to make out a case for grant of bail, Shri Deshpande, learned counsel for the applicant would invite attention of this Court to the apology tendered by applicant no.1-Pooja in the

Court of Civil Judge Senior Division at Aurangabad in MARJI No.942 of 2015. He would invite my attention to the pleadings in paragraph no.3 of the said MARJI application, so as to state that the present applicant is the real aunt of the applicant no.1-Pooja and the property in question was mutated in the name of present applicant since 1986. He would then submit that Pooja in categorical terms has stated that the present applicant is not a necessary party to the said MARJI application and it is further brought to my notice that names of present applicant - Lalita Sunil Rathod / applicant no.5 in the proceedings and Shankar Dagdudas Rathod - applicant no.4 therein are claimed to have been mistakenly added as the parties to the proceedings.

5. Shri Deshpande then would urge that the signature of the present applicant on the verification of the said MARJI application and the vakalatnama was forged. It was not within the knowledge of the applicant that such proceedings are

initiated. By relying upon the provisions of section 73 of the Indian Evidence Act, he would submit that if the signature of the applicant on the passport issued in her favour and that on the pan-card is verified with the signature on the application and vakalatnama, it could be inferred that the signatures are not that of the applicant. Apart from above, he would submit that by initiating the proceedings, there is hardly anything to be achieved by the present applicant, particularly when the property already stood in the name of the applicant and as such, according to him, the application needs to be granted.

6. Learned A.P.P. submits from the record that prima facie involvement of the present applicant cannot be inferred at this stage. According to her, the specimen hand-writing of the applicant is required to be sent for verification. In view of this position, the Court may pass appropriate orders in the matter.

7. Having bestowed my thoughts to the submissions advanced, it is required to be noted that MARJI application no. 942 of 2015 came to be initiated by the present applicant being applicant no.5 to the said application. Once it is noted that the property in relation to which the MARJI application was filed, was already mutated in the name of the present applicant and applicant remained objector before the City Survey authority in relation to the property, it is highly improbable that the applicant would come out with such a prayer before the Court of Civil Judge Senior Division particularly by initiating the proceedings alongwith the other applicants.

8. Apart from above, prima facie Pooja, by giving apology letter before the Court, has conceded the fact that present applicant is incorrectly added as a party to the said proceedings and it shows that the applicant was not a voluntary party to the said

enquiry proceedings for issuance of legal heirship certificate. The fact remains that the applicant, who holds the property is very much available for the investigation.

9. In view of above, in my opinion, it will be appropriate to order release of the applicant on bail. Hence, the following order :-

10. In the event of the arrest of the applicant in Crime no.118 of 2016 registered with Kranti Chowk Police Station, Dist. Aurangabad for the offences punishable under section 417, 465, 468, 471 read with 34 of the Indian Penal Code, she be released on bail upon her executing P.R. bond in the sum of Rs.25,000/- (Rs. Twenty Five Thousand) with one surety in the like amount.

11. The applicant shall attend the concerned Police Station as and when called.

12. The applicant shall not tamper with the prosecution evidence.

13. Criminal Application stands disposed of accordingly.

[N.W. SAMBRE]
JUDGE

arp/-