

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 3117 OF 2016**

1. Uttam Harilal Rathod,
  2. Harilal Lobha Rathod,
- Both R/o. Shivnagar Tanda,  
Tq. Bhokar, Dist. Nanded.
3. Santosh Ramsingh Chavan,  
R/o. Nanda Tanda, Tq. Bhokar,  
Dist. Nanded.
- ...Applicants

versus

The State of Maharashtra  
Through Police Inspector,  
Umri Police Station, Tq. Umri,  
Dist. Nanded.

...Respondent

.....  
Mr. N.D. Kendre, Advocate h/f Mr. H.S. Bedi, Advocate for  
applicants  
Mr. S.Y. Mahajan, A.P.P. for respondent  
.....

**CORAM : N.W. SAMBRE, J.**

**DATE : 29th JUNE, 2016**

**ORAL ORDER :**

The applicants are seeking pre-arrest bail in Crime No. 7 of 2015 registered on 06/02/2015 Umri Police Station, District Nanded, for an offence punishable under Sections 465, 467, 468, 471, 419, 420 read with Section 34 of the Indian Penal Code.

2. The incident has occurred from 16/10/2013 to 13/12/2014.

3. Fulsing expired on 16/01/2012. Applicant Uttam is nephew and applicant Harilal is brother of Fulsing. These two applicants, by impersonating transferred the land owned by late Fulsing to one Dayanand.

4. The role attributed to applicant No. 3 Santosh is that of witness to the incident.

5. While trying to make out case for grant of pre-arrest bail, learned Counsel for the applicants would submit that the nature of allegations as could be noticed from the first information report depicts civil dispute and as such, custodial interrogation of the applicants is not necessary. He would submit that in view of absence of criminal antecedents, the applicants are entitled for bail.

6. Learned A.P.P. opposed the bail application on the ground that there is *prima facie* involvement of applicant Nos. 1 and 2 in the crime in question. He would submit that applicant No. 3 Santosh is a witness to the incident and his bail be rejected.

7. Perused the investigation papers.

8. Having bestowed my thought to the submissions made, it is to be noted that *prima facie* involvement of applicant Nos. 1 and 2 cannot be ruled out in the commission of crime in question. Both the applicants, who have executed registered deed, were aware about the death of Fulsing being his blood relations.

9. In view of above, in my opinion, applicant Nos. 1 and 2 are not entitled to be released on bail. Hence, application on behalf of applicant Nos. 1 and 2 for grant of bail, stands rejected.

10. So far as applicant No. 3 Santosh is concerned, there is hardly any material on record to infer that he was aware about the death of Fulsing, still he has signed the deed in question, as a witness.

11. Even otherwise, in my opinion, custodial interrogation of applicant No. 3 Santosh is not necessary. Applicant No. 3 Santosh is entitled to be released on bail. Hence, the following order :-

(i) In the event of arrest, applicant No. 3 Santosh Ramsing Chavan be released on bail, in connection with Crime No. 7 of 2015

registered with Umari Police Station, District Nanded, for an offence punishable under Sections 465, 467, 468, 471, 419, 420 read with Section 34 of the Indian Penal Code, upon furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

(ii) The applicant shall attend the concerned police station on 3<sup>rd</sup> and 4th July, 2016 between 10-00 a.m. to 12-00 noon and thereafter as and when called by the Investigating Officer.

(iii) The applicant shall not tamper with the prosecution evidence or influence the witnesses.

12. Criminal Application is partly allowed in above terms.

**[ N.W. SAMBRE, J. ]**

Tupe/