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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.532 OF 2016**

Tanaji Shivram Phule and Anr.

...Applicants

Versus

The State of Maharashtra

...Respondent

Mr.Kuldeep Patil i/b Mr.P.S.Hagare, for the Applicants

Mr. Y. M. Nakhwa, A.P.P for the Respondent-State

Police Head Constable - S.H.Patil, Malshiras Police Station, Solapur.

CORAM : REVATI MOHITE DERE, J.

DATE : 28th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicants and the learned A.P.P.
2. By this application, the applicants seek pre-arrest bail in connection with C.R. No. 18 of 2016 registered with the Malshiras Police Station, Solapur. for the alleged offences punishable under Sections 166, 167, 464, 465, 466, 467 r/w 34 of the Indian Penal Code.
3. The complainant is one Pir Mohammad Abdul Hamid Shaikh,

Nayab Tahsildar of Malshiras Taluka, Solapur. He has stated that pursuant to the letter dated 21st September, 2015 of the Sub-Divisional Officer and the letter dated 28th December, 2015 from the Law Officer, Collector Officer, Solapur, received in the Tehsil Office, Malshiras, the Tahsildar, Malshiras directed him to lodge an FIR/complaint with the Malshiras Police Station, against the erring officers. It is stated in the complaint, that the Estate Manager of the Maharashtra State Farming Corporation had made a representation before the Sub-Divisional Officer of Malshiras Division, Akulj with respect to the illegal entries in the revenue record with respect to the land, bearing Gat No.99. It was stated in the representation, that the said Gat No.99, which is about 20 acres, stood in the name of the Maharashtra State Farming Corporation, and that the said name was deleted and an illegal entry with the name of 'Phule's' i.e. of the applicants was made in the revenue records. Pursuant to the said representation, an enquiry was conducted and it was found that illegal entries were made in the revenue records with respect to Gat No.99 and old survey No.32/1, 32/2 during the period 18th February, 2014 to 5th February, 2015. It was also found that illegal entries were made in the 7/12 extract during the period 10th August, 2013 to 28th March, 2015. Pursuant to which,

the aforesaid FIR was registered as against the applicants and two others i.e. S.M.Adagale (Tahsildar) and R.P.Pawar (Talathi).

4. Learned Counsel for the applicants submitted that the land in question stood in the name of the applicants' grandfather, since 1939 – 1940 to 1946 and that there is revenue record in support of the same. He submitted that the applicants' grandfather's name is there, in the revenue record. He submitted that the order of the Sub-Divisional Officer cancelling the entries i.e. applicants names from the revenue records has been challenged before the Revisional Authority and that the same is pending. He further submitted that the applicants have also filed a civil suit for protecting their possession.

5. In spite of giving an opportunity to the applicants to produce the relevant entries, the applicants have not produced any document/record or 7/12 extract, pertaining to the year 1939 - 1940 to 1946, to show that the land stood in the applicants' grandfather's name and later in their name. Instead, it is contended that the original records are in the possession of the Investigating Officer.

6. Learned APP vehemently opposed the bail application. He produced the original records to show the forgery committed by the applicants. He submitted that the land belonged to one Kondi Narayan Patil, he being the original owner in 1929. He submitted that the said Kondi Narayan Patil gave the said land on lease to M/s.Marslan Price and Land Company for a period of 30 years, in February, 1939. He submitted that on the face of it, a perusal of the said documents, will show that the entries in the said 7/12 extract have been tampered with, by fraudulently cancelling the name of the original owner, Kondi Narayan Patil and by writing the name of the applicants grandfather. He submitted that one page from the register i.e. revenue record, which is at page no.160 has been torn and page no.176 has been substituted and put in place of page no.160 and the name of the applicants has been entered in place of Maharashtra State Farming Corporation.

7. Perused the papers. Perused the 7/12 extract of 1929. It appears that the property stood in the name of Kondi Narayan Patil. The original record of 1929 has been produced before me and I have seen the said entry. Prima-facie, the entry clearly shows that the name of Kondi

Narayan Patil is scored off and the name of Tukaram Tatyaba Phule has been entered. Not only is the ink different, but even the handwriting is different on the said document and prima-facie appears to be a recent entry. The said entry, prima-facie shows, that the record i.e. the 7/12 extract, has been tampered with. Similarly, another entry in the register i.e. revenue record, which is also produced before me, clearly shows that page no.160 has been torn from the record and in place of page no.160, page no.176 has been substituted. On the said page no. 176 which is inserted between page nos.159 and 161, the name of Maharashtra State Farming Corporation is shown and thereafter the name of applicants, Tanaji Phule and Suryaji Phule is added. Not a single document is produced by the applicants to show their title to the land. Prima-facie, it appears that the entries have been tampered with. Considering the same, the custody of the applicants is necessary.

8. Hence, the Application for anticipatory bail is rejected and is disposed of as such.

9. Needless to observe, that if an application for regular bail is filed, the same shall be decided on its own merits, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.