

nsc.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.396 OF 2016**

Dharma Mahadu More (Koli)

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr.N.R.Bubna, for the Applicant

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

CORAM : REVATI MOHITE DERE, J.

DATE : 7th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No. I - 285 of 2015 registered with the Taluka Police Station, Malegaon, for the alleged offences punishable under Sections 420, 464, 468, 471 r/w 34 of the Indian Penal Code.
3. Learned Counsel for the Applicant submits that the applicant's aunt expired in 1997. He submitted that the applicant's aunt had no issues.

He further submitted that the revenue authority after conducting an enquiry entered the applicant's name in the 7/12 extract, some time in 2012. He submitted that the complainant filed a private complaint stating therein, that his father was the adopted son of the applicant's aunt and that the applicant had forged and fabricated the documents and on the basis of the same got his name entered in the revenue records. He submitted that the complainant had not produced any document to show that his father was the adopted son of the applicant's aunt.

4. Learned APP has tendered an affidavit of Sub-Inspector S.V.Khandagale, attached to Malegaon Taluka Police Station, Nashik Rural, Nashik. It is stated that the applicant, who is the nephew of the deceased got his name mutated in the revenue records, without following due process of law. He submitted on instructions of the Investigating Officer, who is present in the Court today, that there is no document produced by the complainant to show that his father was the adopted son of the applicant's aunt but, there are statements of witnesses who state so.

5. Be that as it may, the custody of the applicant is not required. Whether or not the complainant or the applicant is the legal heir and is entitled to the property of Yamunabai K. Koli, is a matter which will be decided by the Civil Court. Considering the aforesaid, the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount ;
- (ii) The applicant shall report to the concerned Investigating Officer, as and when called for, till the filing of the charge-sheet;
- (iii) The applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.
8. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.