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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.699 OF 2016

Smt. Jaibai Vishnu Chavan	..Applicants.
V/s.	
State of Maharashtra	..Respondent.

Mr.S.R.Garud i/b. Jayakar & Partners for applicants.

Mr.Y.M.Nakhwa, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 20TH JUNE, 2016

P.C. :-

1. This is an application for anticipatory bail filed by applicants in Crime No.80/2016 for the offences punishable under sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code registered with Nigdi Police Station, Pune at the instance of Vitthal Baban Chavan.

2. Heard the learned counsel appearing for applicants / accused. He argued that applicant No.1 is 80 years old and she is in fact wife of Vishnu Chavan. He further argued that affidavit of son of Shrikrushna Damodar Tamhankar goes to

show that present applicant No.1 was residing in the chawl where said Shrikrushna Tamhankar was residing and that subsequently, she left that tenanted premises. The learned counsel further argued that the agreement allegedly executed by the present applicants is subsequently cancelled. He further argued that except this agreement, there is no agreement executed by present applicants or the power of attorney for sale of the land in question to anybody else.

3. As against this, the learned APP argued that the Adhar Card of the applicant is forged document. Similarly, he argued that the ration card of the applicant is also forged document and the applicant is in fact one Bhagubai Gangadhar Shinde who has tried to impersonate Jaibai Vishnu Chavan for grabbing the ancestral property of Chavan family.

4. Perused the papers relied upon by the learned APP as well as the documents placed on record. It is alleged in the F.I.R. that Chavan family owned ancestral land admeasuring 17 acres and 10 Aar in Gut No.606. The informant Vitthal Chavan further reported that Vishnu Chavan died in the year 1940 and thereafter his wife Jaibai Chavan married one

Shrikrushna Tamhankar and went along with her son Kisan to Mumbai. As such, she has no legal right in the ancestral property. The informant further alleged that applicant No.2 Madhukar Patil has set up one Bhagubai Gangadhar Shinde from Aurangabad to impersonate Jaibai Vishnu Chavan and in this way had executed an agreement to sale of the ancestral land of the informant to one Amol Kalbhor on 14th January, 2015.

5. Upon being asked, the learned APP is unable to point out who the Adhar Card is forged document. Similarly, it was argued by the learned APP on the last date that three more agreements to sale were executed by the applicant. Upon Court's query to point out which are those three agreements to sale of the ancestral land of the Chavan family by present applicants, the learned APP is unable to point out any agreement to sale except the agreement dated 18th March, 2016.

6. It is seen that the applicant Jaibai Vishnu Chavan has filed Miscellaneous Civil Application No.648/2014 seeking Succession Certificate and the same is still pending before the

Competent Civil Court at Pune. Further, from the compilation of documents produced on record, it is seen that the alleged agreement to sale executed on 18th March, 2015 is subsequently cancelled on 26th April, 2016 by applicants. Further three agreements relied by the learned APP are in fact power of attorneys executed by applicant No.1 Jaibai Chavan, Kakde, Kapse and Manohar Pawar prior to the execution of the power of attorney in favour of applicant No.2 Manohar Pawar. Affidavit of son of Shrikushna Tamhanakar is also placed on record by present applicants which shows that the one who died on 17th April, 2004 was in fact mother of Janardhar Shrikrushna Tamhankar and not applicant No.1 Jaibai Chavan.

7. Claim of applicant No.1 Jaibai Chavan for succession is still pending before the Competent Court. In this view of the matter, liberty of the present applicants needs to be protected. Their custodial interrogation is not warranted. Allegations are based on documentary evidence. Hence the order :-

(i) In the event of his arrest of applicants / accused in Crime

No.80/2016 for the offences punishable under sections 420, 465, 467, 468 and 471 read with 34 of the Indian Penal Code registered with Nigdi Police Station, Pune they be released on bail on executing P.R. Bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;

- (ii) As a condition of this order, applicants / accused shall attend Nigdi Police Station, Pune on 26th June, 2016 and 3rd July, 2016 between 11.00 a.m. to 1.00 p.m.;
- (iii) Applicants / accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts either to the Court or to any police officer and that they shall not tamper with the evidence;
- (iv) Applicants / accused shall inform their latest place of residence and cell numbers after their release and continue to inform the change in residence or cell number, if any, from time to time to the Investigating

Officer of the concerned police station and on filing the charge-sheet to the concerned Court;

- (v) Applicants / accused shall co-operate for expeditious disposal of the trial;
- (vi) Applicants / accused shall not commit an offence similar to the offence of which he is accused or suspected of the commission;
- (vii) The application is disposed of accordingly.

(A.M.BADAR, J.)