

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1028 OF 2016

Smt. Vijaya Sharadchand ZabakApplicant No.1
Shri. Sharadchand Swaroopchand ZabakApplicant No.2

V/s.

The State of MaharashtraRespondent

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Mr. Sunder Vaswani, Advocate for the applicant.
Ms. Sharmila Kaushik, Advocate for the respondent.
PSI, Chavan, Hill Line Police Station present.

CORAM :- N.W. SAMBRE, J.

DATED :- 21st NOVEMBER, 2016.

P.C. :-

- 1). The applicants are seeking pre-arrest bail in Crime No.I-203 of 2015 for offences punishable under Sections 193, 406, 420, 465, 467, 471, 474 read with Section 34 Indian Penal Code.
- 2). The applicant Sanjeevmani is seeking pre-arrest bail in the background of role attributed to him of being witness to the document (Will) which was executed and registered. So far as applicant, Vijaya and her husband, Sharadchandra is concerned, they are the beneficiaries and executors of the Will. In this background while opposing the bail, the learned APP urged that

custodial interrogation is necessary in the background of the fact that the Registrar has claimed that she has got the document registered by obtaining the signature of the deceased at home, whereas the Doctor has given a statement that on the said date, the patient was hospitalised.

3). The learned Counsel for the applicant, has rightly invited my attention to the fact that there is an unexplained delay of more than three years in lodging the FIR. Apart from above, the entire evidence is based on the documents and the same are very much available and in the custody of the Investigation Officer. In view thereof, custodial interrogation for recovery of the documents is not called for.

4). Already there exists a dispute between the complainant and the applicant pending for issuance of probate before the Competent Court and at the behest of the present applicants, the complainant was convicted for an offence punishable under Section 354 Indian Penal Code on January 29, 2015 in Regular Civil Case No. 379 of 2012. In this background, false implication cannot be ruled out. In response to the objection raised by the learned APP about production of original documents, the learned Counsel for the applicant submits that, original copy of the Will in question, is already filed in the probate proceedings before the Court at Kalyan. The statement is accepted.

5). Hence, the bail application needs to be allowed. In the event of the arrest, the applicants be released on furnishing on P.R. Bond

of Rs.25,000/- (Rs. Twenty Five Thousand only) with one surety in the like amount.

6). The applicants shall attend police station on Monday and Thursday for one week and thereafter as and when called.

7). The applicants shall not tamper the evidence and/or influence the witnesses in any manner whatsoever.

(N.W. SAMBRE, J)