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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1046 OF 2016.

Kiran Vijay Jogdand .. Applicant.
Vs
State of Maharashtra .. Respondent.

Mr Irfan Shaikh, for the applicant.
Ms S.S. Kaushik, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.
DATE : 29th August, 2016.

P.C.

1) This is an application for pre-arrest bail under section 438 of the Code of Criminal Procedure, 1973 in C.R. No.I-2/2016 registered with Kelve Sagari Police Station, Palghar under sections 465, 468 and 471 of the Indian Penal Code.

2) The first information report is lodged on 6/2/2016 by Mr Sopan B. Pawar, working as Talathi at village Jalsar, District Palghar.

It is stated in the said report, that the land bearing Survey no. 9/2, area 0.18.5 ares lying and situate at Kharmendi village Jalsar, was originally owned by the father of Jairam B. Gharat and 7 other relatives of him. The father of Jairam expired and the names of legal heirs were mutated in the revenue record. There were in all eight legal heirs. The said legal heirs are the sisters and brothers of Jairam Gharat. The applicant was working as Talathi at

village Jalsar between 29/8/2009 to 6/6/2013. It is the case of the prosecution that Jairam Gharat, in active connivance with the present applicant who was then Talathi of said village, forged and/or fabricated the said extract to show increase in the original 7-12 extract of Survey No. 9/2, originally having area of 0.18.5 Are and removed the names of other seven legal heirs and also forged and/or fabricated the said extract to show increase in the area of the said land to 1.18.5 Are. That Jairam B. Gharat subsequently sold the said land to other accused persons. It is further the case of the prosecution that when the said 7-12 extract was sent for certification under the Rules of Maharashtra Land Revenue Code, the Circle Officer noticed material irregularities and/or illegalities in the same and conducted enquiry into it. It was noticed therein that the said 7-12 extract was forged and revenue record was tampered with. The names of legal heirs of Jairam Gharat are removed/deleted from the 7-12 extract. It was not just possible without the active connivance of the present applicant. In the premise, the Circle Officer directed the complainant to lodge the first information report.

3) The learned counsel for the applicant submitted that as a matter of fact, it is the applicant who has brought the said irregularity and/or illegality to the notice of the Circle Officer and/or higher authorities. He further submitted that by the letters dated 24/2/2016 and 19/3/2016 the

applicant has placed on record the facts relating to the fabrication of said 7-12 extract and mutation entries thereof. He further submitted that in pursuance of the order of interim protection granted by this Court, his client has attended the investigating officer and there is no need for his custodial interrogation. He, therefore, prayed that the present application may be allowed and the applicant be granted pre-arrest bail.

4) At the out set, it is to be noted here that the applicant was Talathi at the relevant time of village Jalsar. The said fabrication of 7-12 extract pertaining to Survey no. 9/2 originally belonged to the father of Jairam Gharat and sending it for certification has happened in the tenure of the present applicant. It is apparent that unless and until the applicant herein actively facilitates the co-accused Jairam Gharat the fabrication and/or forging of the 7-12 extract is not possible. It is further to be noted that the 7-12 extracts were to be certified by the Circle Officer on the report made by the applicant. The applicant was holding the post of a responsible Government servant. The letters dated 24/2/2016 and 19/3/2016 which the applicant has addressed are written to the concerned Department after the first information report is lodged. This is clearly an after thought and the said letters are written with a view to create a defence. The allegations against the applicant are very serious in nature. It is the applicant who is alleged to have connived with Jairam Gharat for fabricating and/or

tampering the Government record.

5) After taking into consideration the serious allegations against the applicant and the gravity of the offence, according to me, the custodial interrogation of the applicant is imperative to unearth the truth behind the entire crime. The investigating agency will have to find out who are the other persons in the Revenue Department who helped the applicant in forging and/or fabricating the revenue record, thereby facilitating in purchasing the said land to other accused persons. In view of the above, I find no merits in the application.

The application is accordingly dismissed.

(A.S.GADKARI, J.)