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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1038 OF 2016

Anil Shamrao Kadam and Ors.	..Applicants.
V/s.	
State of Maharashtra	..Respondent.

ANTICIPATORY BAIL APPLICATION NO.1115 OF 2016

Basavraaj Nagappa Koli	..Applicant.
V/s.	
State of Maharashtra	..Respondent.

Mr.S.B. Shetye for the applicant in ABA/1038/2016.

Mr.S.B. Shetye i/b. Shriya S.Jadhav for the applicant in ABA/1115/2016.

Mr.Deepak Thakre, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 3RD AUGUST, 2016

P.C. :-

1. Applicants / accused in Crime No.101/2016 for the offences punishable under sections 420, 464, 465, 4676, 468, 471, 447, 352, 506(1) (2) read with 34 of the Indian Penal Code registered with Bhore Police Station, District Pune by

these applications are praying for pre-arrest bail.

2. Heard the learned counsel for applicants / accused. By taking me through the F.I.R. as well as judgment in R.C.S. No.125/2012 between the parties delivered by the learned Civil Judge, J.D., Bhore, the learned counsel argued that the dispute is predominantly of civil nature but as the informant failed to get full relief in the Civil Court, she has lodged the F.I.R. in question.

3. The learned APP on instructions submits that during the course of investigation, the Power of Attorney was verified by the investigator and it is found to be genuine.

4. Perused the F.I.R. as well as the record made available. The informant Rebecca Goud had reported on 4th May, 2016 that her husband had purchased 44 gunthas of land bearing Gut No. 77(b)/3 in the year 1986 and subsequently, executed Power of Attorney in respect of the said land in favour of applicant / accused Anil Kadam. The informant further averred that after the death of her husband in the year 2002, applicant / accused Basavraaj Koli who was

asked to work as a watchman encroached in the shed by breaking open the lock and started residing there with his family. The informant further averred that she had come to know that applicants Anil Kadam and Ravindra Barhate had indulged in forgery and thereby prepared a false Power of Attorney by showing it to be executed by informant's husband. The informant further averred that on the basis of the forged document, applicant Anil Kadam had executed lease deed in favour of applicant Ravindra Barhate for a period of 99 years. The informant further referred to the Special Civil Suit No.798/2008.

5. It is pointed out that Special Civil Suit No.798/2008 pending on the file of the learned Civil Judge, S.D. Pune was transferred to the file of the learned Civil Judge, J.D., Bhore and it was registered as Regular Civil Suit No.125/2012. My attention is drawn to the judgment delivered by the learned Civil Judge, J.D. in that suit for injunction, declaration and possession. It is seen that upon examining the evidence adduced, the learned Civil Judge, J.D. Bhore had concluded that the plaintiff i.e. Rebecca Goud had failed to prove that the Power of Attorney executed by her husband in favour of

applicant Anil Kadam is bogus and fraudulent document.

6. It is thus seen that the competent Civil Court has adjudicated the relevant issue in favour of applicant / accused Anil Kadam.

7. Considering the fact that the competent Civil Court is already seized of the matter which is reported to be pending in appeal, custodial interrogation of the present applicant is not necessary and, therefore, the order:-

- (i) Both applications are allowed;
- (ii) Orders dated 22nd June, 2016 and 4th July, 2016 granting interim anticipatory bail is confirmed on the same terms and conditions.
- (iii) Both applications are disposed of accordingly.

(A.M.BADAR, J.)