

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO.1467 OF 2016**

1. Sunil Raghunath Khamkar
2. Vasant Ganpati Koli ... Applicants
Versus
State of Maharashtra ... Respondent

Mr.Abhishek Avachat, for the Applicants.

Mr.R.M.Pethe, APP for the State.

CORAM : SMT.SADHANA S. JADHAV, J.
DATE : SEPTEMBER 29, 2016.

PC. :

1. Heard. This is an application under section 438 of Cr.P.C. The applicants herein are apprehending their arrest in crime No. 155 of 2016 registered at Ichalkaranji Police Station for the offence punishable under sections 465, 466, 467, 468, 471, 474, 504, 506 r/w 34 of the Indian Penal Code. Learned APP has filed an affidavit-in-reply, which is taken on record.

2. It is the case of the prosecution that the complainant Babasaheb Hanif Rohile lodged the First Information Report at the police station alleging therein that he is the owner of property survey No. 679, Part No.2, admeasuring 0.09 Aars i.e. 9 gunthas, which he had sold in favour of his wife Noorjehan in the year 2010, by registered sale deed dated 15th March,2010. That on 12th July, 2016 owner of adjacent land had informed him that some people had erected compound wall on his

land. The complainant inquired with the people and was shocked to learn that the property was shown to be sold in favour of one Manoj Nikam. He had seen the 7/12 extract, wherein the name of his wife was cancelled and the name of Manoj Nikam was shown as the holder of the said property. He had also seen the Revenue record in the form of Mutation entry No. 53790, which shows that the property was sold on 22nd March, 2012. The complainant had rushed to the Revenue Office and had learnt that the name of Manoj Nikam was entered into the 7/12 extract by the present applicants in the capacity of Talathi and Circle Officer respectively. It appears that the said entries were taken on the basis of the purported sale deed in favour of Manoj Nikam. The complainant had approached the office of Talathi and had requested that the name of Manoj Nikam be deleted from the 7/12 extract as well as the Mutation entry. The mutation in favour of Manoj Nikam was also cancelled by the Sub-Divisional Officer as it had transpired that the alleged sale deed was a sham document. On 5th August, 2016 the mutation entry was cancelled. The applicants have been arraigned as accused on the ground that they have conspired with Manoj Nikam and have taken bogus entry in the 7/12 extract on the basis of which mutation entry were taken.

3. The learned Counsel for the applicants rightly submits that no knowledge can be attributed to the present applicants, even prima facie, as to whether the applicants had knowledge that the document produced before them is a sham and bogus document. As on today the mutation entry in the Revenue Record have been cancelled. The applicants are public servants. They would rely upon the documents produced before them without having any personal knowledge and hence, the applicants deserve grant of pre-arrest bail.

4. In view of this, applicants deserve pre-arrest bail. It is made clear that the observations made herein above are prima facie in nature and are restricted to an application under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of First Information Report, discharge application or at the time of trial. The investigation is in progress. Prima facie the custodial interrogation of the applicants would not be imperative. Hence, following order.

ORDER

- i) The application is allowed.
- ii) In the event of arrest the applicants be enlarged on bail on furnishing PR bond in a sum of Rs.15,000/- each with one or two solvent sureties in the like amount.
- iii) The applicants shall co-operate with the Investigating Agency and report to the Investigating Officer as and when called after issuing a notice under section 160 of Cr.P.C.
- iv) The application is allowed in above terms and stands disposed of.

(SMT.SADHANA S.JADHAV, J.)