

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1571 OF 2016

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3 It is the case of the prosecution that the complainant namely, Asha Phulpagar lodged a report at the police station alleging therein that she is the owner of the land survey No. 449 admeasuring 476 sq. mtrs. situated at Awasari Badruk. It is her ancestral land. She is the owner of 2 and half gunthas. Her step brother namely Bapu Rokade had in conspiracy with the co-accused had sold the land in favour of Smita Narayankar and Ramesh Narayankar on 27/11/2015. That the sale deed was signed by proxy. It was also alleged that the present applicants had signed as witnesses to the sale deed on 27/11/2015. Hence, the accused have committed an offence punishable under Section 420, 467, 468, 471 of the Indian Penal Code.

4 It appears from the record that Ramesh Narayankar and Smita Narayankar, who had purchased the land by proxy have been protected by this Court. It was observed by the Hon'ble Predecessor Bench (Coram : A.M. Badar, J) in the order dated 5/7/2016 that the purchaser Ramesh happens to be the bonafide purchaser and they had

been cheated by Bapu Rokade. It is also observed that on 10.3.2016 Ramesh and his wife have lodged a report alleging therein that Bapu Rokade had cheated them and that they were intending to cancel the sale deed on receiving the consideration which was paid. It is also observed that Ramesh had believed the version of Bapu Rokade and agreed to purchase the land owned by Asha Phulpagar. It is clear from the record that Asha had been impersonated, as she is the resident of Kannamwar Nagar, Vikroli, Mumbai. The applicants are residents of village Awasari i.e. the village of Bapu Rokade. It is clear that the present applicants had been approached by Bapu Rokade. Asha Phulpagar was residing at Mumbai. However, she hails from the same village. It is clear that the present applicants had signed as witnesses at the request of Bapu Rokade.

5 Learned APP submits that Bapu Rokade, who is the principal accused is still absconding. It is clear that the present applicant had conspired with Bapu Rokade in order to cheat the original

complainant. In view of this, the applicants do not deserve to be protected by way pre-arrest bail.

6 The learned Counsel for the applicants has placed implicit reliance upon the orders passed by the Hon'ble Predecessor Bench and claims for parity. However, the earlier application, which was filed by the purchasers, who had specifically contended that they have believed Bapu Rokade and had purchased the land without verification from the original owner, since they knew Bapu Rokade, who happens to be resident of the same village.

8 In view of the above, the application seeking pre-arrest bail stands rejected.

9 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned trial court shall not be influenced by the same while deciding

application under section 439 of the Code of Criminal Procedure,
1973.

10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)