

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

Amk

ANTICIPATORY BAIL APPLICATION NO. 1591 OF 2015

Manjulabai Harishchandra Mhatre ...Applicant

Versus

The State of Maharashtra ...Respondent

WITH
CRIMINAL APPLICATION NO. 1028 OF 2015
IN
ANTICIPATORY BAIL APPLICATION NO. 1591 OF 2015

Kundan Sitaram Patil ...Intervener

Manjulabai Harishchandra Mhatre ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Manoj Mohite i/b Mr. Anil D. Joshi for the Applicant.

Mrs. G. P. Mulekar, APP for the Respondent-State.

Mr. K. M. Shine for the Intervener.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 25th JANUARY, 2016.

P. C. :

1. This is an application for anticipatory bail filed by the aforesaid applicant apprehending her arrest in Crime No. I-1/14

registered with Nhava Sheva Police Station, Navi Mumbai for the offence punishable under Sections 415, 419, 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. The aforesaid crime was registered pursuant to the FIR lodged by one Kundan Sitaram Patil. The dispute in the present case is in respect of the property owned by Dattu Shanivar Patil. The complainant claims that said Dattu Patil was the cousin of his grandfather whereas the applicant claims that the Dattu Patil is her father. The complainant as well as the applicant are claiming rights over the said property owned by Dattu Patil.

3. Heard learned Counsel Shri Mohite for the applicant and the learned Counsel for the intervener as also the learned APP for the State.

4. I have perused the record and considered the submissions advanced by the learned Counsel for the parties. The record prima facie reveals that the said land was acquired by the CIDCO and the award was passed in the year 1985. One Vinayak Patil, the uncle of the complainant had lodged a complaint with CIDCO claiming rights

over the said property. The said complaint was dismissed and show cause notice was issued to Vinayak Patil for raising false claim. The complainant had also lodged a complaint against the applicant and CIDCO before the Commissioner of Police. By letter dated 12.07.2013 the complainant was informed that the said complaint had no merits. Subsequently a complaint was lodged before the Nhava Sheva Police Station in respect of the same property. The said complaint was subsequently transferred to EOW. By letter dated 26.08.2013 the Police Inspector, EOW had informed the complainant that the dispute was basically of civil nature.

5. It is not in dispute that the complainant thereafter filed a private complaint and process was issued by the learned JMFC, Panvel. The complainant had withdrawn the said complaint and filed another application under Section 156(3) of the Cr.P.C. wherein a statement was made that 'no other proceeding was filed in any other Court'. The learned JMFC, therefore, passed an order under Section 156(3) of the Cr.P.C. and directed registration of the FIR. Pursuant to which the present crime came to be registered.

6. The record prima facie indicates that the complainant had

obtained the order under Section 156(3) of the Cr.P.C. by making a false statement and also by suppressing fact that the EOW had already informed him that the dispute is of civil nature. Be that as it may, the complaint as well as the other documents annexed thereto prima facie reveal that the dispute is of civil nature and the allegations levelled against the applicant do not justify custodial interrogation.

7. Under these facts and circumstances, the application is allowed on the following terms and conditions:

(a) In the event of the arrest of the applicant in Crime No. No. I-1/14 registered with Nhava Sheva Police Station, Navi Mumbai, the applicant is released on bail furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand only) with one surety in the like amount to the satisfaction of the Judicial Magistrate First Class, Panvel.

(b) The applicant shall report the Investigating Officer for 4 days from 10 a.m. to 1 p.m. from the date of the receipt of this order.

(c) The applicant shall not interfere with the complainant or the other witnesses in any manner.

(d) The applicant shall not leave the Thane and Raigad districts till filing of the charge-sheet without prior permission of the Judicial Magistrate First Class, Panvel.

In view of the disposal of the application, Criminal Application No. 1028 of 2015 is also disposed of.

(ANUJA PRABHUDESSAI, J.)