

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 2062 OF 2016

Rajendra Suresh Zende and another

.....Applicants

V/s.

The State of Maharashtra

....Respondent

Mr. Adwait Bhonde i/b Mr. Rohan Nahar Advocate for Applicant.

Mr. Rupesh Zade for first informant

Mr. Prashant Jadhav APP for the State.

Mr. A. A. Rathe, P.S.I., Yawat Police Station, Pune (Gramin)

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 5th DECEMBER, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicants herein are apprehending their arrest in crime no. 798 of 2016 registered at Yavat police station for offence punishable under sections 420, 468, 469, 471 r/w 34 of the Indian Penal Code.

2) It is the case of the prosecution that Tejas Pansare lodged a report at the police station alleging therein that Tukaram Pansare was the owner of the property bearing Gat No. 137 of 2010 situated at Yavat. Tukaram expired in the year 1979 and the property had devolved upon his legal heirs i.e.

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Bhimrao, Arjun and Ramesh as well as Yamunabai who is wife and Sushila Pol. Sushila Pol expired on 10/10/1982. The property of her share was inherited by her legal heirs i.e. Tanuja, Ranjeet and Jayashree. It is admitted that the legal heirs of Sushila had relinquished their rights in the said property and the property was then co-owned by Bhimrao, Arjun and Ramesh. It is the case of the prosecution that Ramesh had visited the office of Talathi to obtain 7/12 extract. He had seen that two names were added in 7/12 extract and they were Yogesh Pansare and Rajendra Zende. Ramesh Pansare who happens to be legal heir had no knowledge how the names were added in the list of co-owners in the 7/12 extract. He had filed an application under the Right to Information Act and it was revealed that Bhimrao Pansare had filed an application before Talathi for adding these two names i.e. the names of the present applicants. The mutation entry was taken on the basis of the said application. Present applicants are the beneficiaries of the said application filed by Bhimrao, father of applicant no. 2. Rajendra Zende is not the relative of Pansare family.

3) According to the learned counsel that the Bhimrao Pansare owed some amount to Rajendra Zende and in lieu of the same, he had filed an application

to give a portion of the said amount in favour of Rajendra Zende. It appears that notices were issued on the basis of the application filed by Bhimrao. At that time, Yamunabai was no more, however, it is shown that all of them have received notices. In fact, no notice were received. It is also seen from the records that statement of Yamunabai Pansare was recorded before the Tahsildar and the said statement bears her thumb impression. In fact, Yamunabai had expired long before application was filed.

4) The learned counsel for the applicants submits that in fact, application was made by his father who is no more. After it was revealed that there was forgery in the document, Bhimrao had filed an application to recall the partition deed dated 18/03/2016 and the present applicants had filed an affidavit in support of the said application. Partition deed was cancelled. The learned counsel for the applicants submits that in fact, rights of the complainant and the co-owners was not disturbed. That Bhimraio Pansare is no more. Application dated 31/10/2015 is signed by both applicants. Applicants had given their consent by filing their notarized affidavit in favour of the partition deed as applied by Bhimrao Pansare. It is pertinent to note that photo of Yamunabai was shown along with her thumb impression. In fact, she

had died prior to 31/10/2015. There is forgery and fabrication of documents. It is in these circumstances that the applicants do not deserve to be enlarged on bail. However, in the eventuality that the applicants file an application under section 437 or 439 of the Code of Criminal Procedure, 1973, their applications shall be considered on its own merits without being influenced by the rejection of the present application.

5) Application being sans merits, stands rejected.

(SMT. SADHANA S. JADHAV, J.)