

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 491 OF 2016
(Ramesh Ukharda Masaye & another Vs. The State of Maharashtra)

 Office Notes, Office Memoranda of Coram,
 appearances, Court's orders or directions
 and Registrar's orders

Court's or Judge's orders

Shri S. S. Joshi, Advocate for the applicants.
 Shri T. A. Mirza, A.P.P. for the State.
 Shri S. K. Bhoyar, Advocate for the intervenor-complainant.

CORAM : S. B. SHUKRE, J.

DATED : SEPTEMBER 15, 2016

APPP NO. 1076/2016 :

Heard.

For the reasons stated in the application, the application is allowed. Leave to assist the prosecution is granted. Application is disposed of.

ABA NO. 491/2016 :

Heard learned Counsel for the applicants and learned A.P.P. for the State, assisted by learned Counsel for the complainant.

The core of the allegation is that a *Bhudan* land, not transferable without due permission, has been sold by one Manoj Kuthe to the complainant. The further allegation is that Manoj Kuthe had purchased this land from the original beneficiary under the *Bhudan* land allotment scheme and as soon as Manoj Kuthe learnt that the transaction of transfer of land was going to be cancelled by the revenue Authority, without disclosing this fact, he sold this land to the complainant.

According to the complainants, they were not knowing anything about the land in question being *Bhudan* land. They submit that applicant No.1 himself was the prior

purchaser of the land and he was only consentor to the transaction of sale and purchase between Manoj Kuthe and the complainant.

Of course, the complainant has alleged that even these applicants had the knowledge that the land in question was *Bhudan* land. However, as seen from the documents placed on record and also the reply of the prosecution, there are no circumstances brought on record from which these applicants possessing knowledge about the clog on the marketability of the land could be ascertained. The primary knowledge of the land being *Bhudan* was with the original allottees, i.e. the members of Butle family, who committed the first crime of selling the land to Manoj Kuthe. But, the concerned members of Butle family have not been made accused in this case. As already stated, there are no circumstances indicating the fact that these applicants have some knowledge about the non-transferability of the land without due permission. In these circumstances, I am of the view that the relief of anticipatory bail cannot be denied to these applicants. Hence, the order.

The application is allowed and the interim bail granted to the applicants on 28/7/2016 is hereby confirmed on the same conditions.

JUDGE

CERTIFICATE

“I certify that this order uploaded is a true and correct copy of original signed order.”

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