

(1)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.312 OF 2017

1. Govind Chandu Rathod,
Age: 68 years, Occ: Agri.,
2. Kundan Govind Rathod,
Age: 40 years, Occ: Service,

Both R/o. Shivani Tanda,
Rathodnagar), Tq. & Dist.Jalna...APPLICANTS

VERSUS

The State of Maharashtra,
Through Police Station Sevli
Dist. Jalna.

..RESPONDENT

WITH

**CRIMINAL APPLICATION NO.437 OF 2017
IN
CRIMINAL APPLICATION NO. 312 OF 2017**

Kailas s/o Fakira Rathod,
Age: 44 years, Occ: Agri.,
R/o. Shivni Tganda, post Ner
Tq. Jalna Dist. Jalna
At present Kanchan Nagar, Jalna. ..APPLICANT

VERSUS

1. Govind Chandu Rathod,
Age: 68 years, Occ: Agri.,
2. Kundan Govind Rathod,
Age: 40 years, Occ: Service,

Both R/o. Shivani Tanda,
(Rathodnagar), Tq. & Dist.Jalna.

(2)

3. The State of Maharashtra,
Through Police Station Shevli
Tq. Jalna, Dist. Jalna.

..RESPONDENTS

Mr V.D. Salunke, Advocate h/f Mr S.J. Salunke,
Advocate for applicants;
Mr V.S. Badakh, Addl. Public Prosecutor for
respondent/State
Mr Satej S. Jadhav, Advocate to assist A.P.P.

CORAM : N.W. SAMBRE, J.**DATE : 20th FEBRUARY, 2017****ORAL ORDER :**

For the reasons stated in Criminal
Application No. 437 of 2017 seeking permission to
assist the prosecution, same stands allowed.

2. In Crime No.72 of 2016 registered with
Sevali Police Station, District Jalna, for offence
punishable under Sections 420, 468, 467, 471, 417
read with Section 34 of the Indian Penal Code, the
applicants are seeking pre-arrest bail.

3. Applicant No. 2 is son of applicant No.1,
whereas complainant is nephew of applicant No.1.

(3)

4. It is claimed in the first information report that Shri Vasantao Naik Shikshan Prasarak Mandal, a registered public trust and society registered under the Maharashtra Public Trusts Act and Registration Act, is managing various educational institutions and grants are admissible to such institutions.

5. It is claimed that applicant No.1 though as per schedule was Secretary, styling him to be President, nominated his son applicant No.2 as Secretary and opened account on 31st March, 2009 with the Bank of Maharashtra, at Ter though trust was having already account with the State Bank of Hyderabad, at Jalna.

6. Mr. Salunke, learned Counsel for the applicants would urge that first information report is lodged in the backdrop of dispute over the control of the management of the trust. According to him, when the earlier account was operational at Jalna, there was no bank operating at Ner and it is

(4)

upon opening of Bank of Maharashtra at Ner, account was opened. He would then submit that change reports under Section 22 of the Public Trusts Act are already pending before the competent forum and objections if any to the present applicants qua administration of trust can be raised therein including that proceedings to be taken out under Sections 41-A to 41-D of the Maharashtra Public Trusts Act.

7. Per contra, learned Additional Public Prosecutor, assisted by Mr. Jadhav, learned Counsel for the complainant, would urge that fraud practiced by the applicants is apparent from the documents as could be perused which are placed on record. According to him, prima facie involvement of the applicants in mismanagement, practicing fraud is apparent and prayed for rejection.

8. At the outset, it appears that for incident of 31st March, 2009 i.e. almost about seven years back, the first information report came

(5)

to be lodged in 2016. It appears that there is dispute qua management of the trust between the applicants and complainant, as complainant claims that his father was President of the trust.

9. Apart from above, it could be noticed that offence as has been alleged is based on documents and such documents are already available either with the trust or with the bank.

10. Apart from above, a categorical statement is made by Mr. Salunke, learned Counsel for the applicants in the form of undertaking that the applicants shall operate the account in the Bank of Maharashtra at Ner of the trust in question and no other account will be opened and operated for and on behalf of trust till conclusion of trial in the present case. Said statement is accepted in the form of undertaking.

11. In the background of above, ad-interim protection granted by this Court on 30th January, 2017 is confirmed. Hence, the following order is

(6)

passed :-

(i) In the event of arrest of the applicants in Crime No.72 of 2016 registered with Sevli Police Station, District Jalna, for offence punishable under Sections 420, 468, 467, 471, 417 read with Section 34 of the Indian Penal Code, they be released on bail, on each of them furnishing P.R. bond of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicants shall attend the Investigating Officer on 5th to 7th March, 2017 between 10.00 a.m. and 12.00 noon and thereafter as and when directed.

(iii) The applicants shall not influence the prosecution witnesses or tamper with evidence.

12. Criminal Application No. 312 of 2017 stands allowed in above terms.

(N.W. SAMBRE, J.)

Tupe