

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 1412 OF 2017

Subhash s/o. Shrawan Bodkhe
and Anr.

....Applicants.

Versus

The State of Maharashtra

....Respondent.

Mr. Rajendra S. Deshmukh, Advocate for applicants.

Mr. A.R. Borulkar, APP for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : April 10, 2017.

ORDER :

1. The application is filed for bail. Both the sides are heard. This Court has perused the papers of investigation.

2. The dispute is over a plot having size of 20 ft. x 30 ft. situated at Ganesh Nagar, Garkheda, Aurangabad. The record produced and the papers of investigation show that this plot was initially purchased by Annapurnabai Butte, mother of Shivaji from one Sundarrao Ubale on 28.3.2006. Annapurnabai sold this plot under document styled as 'Kharedikhat', but written on general stamp paper of Rs.100/- to one Arjun Shamrao Kakade on 2.10.2013 under similar document. Kakade then executed similar document in favour of the present applicants on 4.4.2014

and then the present applicants sold that property to complainant Sangita Jain under similar document on 12.3.2015.

3. The case of the complainant Smt. Jain is that possession of the property was given to her and when for some time, she was out of station and she had gone to Mumbai in the year 2016, she had dispossessed. It is her case that she noticed that Shivaji son of Annapurnabai Butte was in possession of the said property and on inquiry he told that he was given the possession of the property by the present applicants. She approached police and then crime came to be registered for offences punishable under sections 420, 406, 34 etc. of Indian Penal Code. The learned counsel for applicants produced on record the print out in respect of pending litigation in the Court of Civil Judge, Senior Division, showing that R.C.S. No. 1633/2016 (Registration No. 484/16) is filed between Renuka Shivaji Butte Vs. Sangita Vinod Jain, Subhash Shrawan Bodkhe and Rameshwar Shriram Shelke (present applicants and the accused). Though the copy of complaint is there, this print out is sufficient to infer that Renuka Butte has grievance about the aforesaid document executed by Annapurnabai Bhutte in faour of Kakade.

4. The papers of investigation show that no effort was made by the investigating agency to approach Annapurnabai or Shivaji and confront the aforesaid document to them. In view of the nature of dispute, it was necessary to do that. The pendency of the civil suit is sufficient to say that at present Bhatte family is in possession. There is nothing with the complainant to show that she had obtained possession and her allegation in the F.I.R. also do not show that she has household articles in the house and they were stolen. Thus, the dispute is of aforesaid nature.

5. The applicants are behind bars since 28.2.2017. In view of these circumstances, this Court holds that it is not desirable to keep the applicants behind bars till the disposal of the case which may be filed against them.

6. In the result, the application is allowed. The applicants are to be released on bail on their furnishing PR and SB of Rs. 15,000/- (Rupees fifteen thousand) by each of them. They are not to tamper with the prosecution witnesses. They are not to commit similar offence.

[T.V. NALAWADE, J.]

ssc/