

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

Criminal Application No. 1900 of 2017

Pradip Kisan Borgaonkar. **.. Applicant.**

Versus

The State of Maharashtra. **.. Respondent.**

Shri. Amit S. Savale, Advocate, for applicant.

Shri. A.A. Jagatkar, Additional Public Prosecutor, for respondent.

With

Criminal Application No. 1824 of 2017

1) Ukhedibai Thansing Bhil
2) Krushna Dhansing Bhil
3) Vasant Gaba Thakre. **.. Applicants.**

Versus

* The State of Maharashtra. **.. Respondent.**

Shri. Shailesh P. Brahme, Advocate, for applicants.

Shri. A.R. Borulkar, Additional Public Prosecutor, for respondent.

With

Criminal Application No. 1828 of 2017

- 1) Motilal S/o Thansing Bhil
- 2) Mangalsing S/o Rupsing Bhil. .. **Applicants.**

Versus

- * The State of Maharashtra. .. **Respondent.**

Shri. Prakashsing B. Patil, Advocate, for applicants.

Shri. A.R. Borulkar, Additional Public Prosecutor, for respondent.

Coram: T.V. NALAWADE, J.

Date: 27 April 2017

ORDER:

1) When this Court expressed that the Court is not inclined to grant the relief of anticipatory bail to the applicant from Criminal Application No.1900 of 2017 on instructions submitted that he wants to withdraw the proceeding.

2) Criminal Application Nos.1824 of 2017 and 1828 of 2017 are filed for relief of bail . Both the sides are heard. Papers of investigation were made available for perusal of this Court.

3) This is a very peculiar case which speaks lot about the manner in which various systems are working. The complainant, a tribal lady, is the owner of agricultural land and the land was standing in the name of mother Jainabai Bhil. It is ancestral property of their family. On 12-6-2014 the owner received notice from Dena Bank, a Nationalised bank, Branch Dondaicha that default was committed in making payment of Rs.5.80 lakh which was taken by mortgaging the land of Jainabai. Then another notice was received on 8-12-2014 which was notice of Rs. three lakh and in that case also the notice was issue by the same Dena Bank that default was committed in making repayment of crop loan. This lady became surprised as no loan was taken by her and as there was no question of mortgaging the land for taking loan. After receipt of the notice she first approached the concerned Bank with her brother and daughter (complainant). She showed the notice and she informed that she had not taken loan but as usual the officers of the nationalised bank gave evasive answer and they said that they had the record of loan and mortgage. Then when the complainant and her mother insisted, they were informed that the loan

was given as some other persons had given application by pasting their photographs showing that they were Jainabai and Lotan. Lotan was also shown as the debtor. It appears that said Lotan was murdered on 11-2-2016. However, statement made shows that accused Motilal and others got acquittal. The complainant and her mother ran from pillar to post to have redressal in respect of their grievances but everybody gave evasive answers and did not take cognizance. They approached the persons who had taken loan but they gave threats. It appears that Lotan was murdered when the complainant's mother started moving for having redressal in respect of their grievances. When they collected information they noticed that even Talathi had supplied false 7/12 extract showing that there was well in the land and this 7/12 extract was used by the main accused for getting loan. The mortgage document was registered in the office of the Sub Registrar on 31-7-2014. It is surprising that even when from last few years the procedure is given to produce photo identity of the parties to the document to be registered like Aadhar card, Identity Card issued by Election Commission, the Sub Registrar registered the mortgage document even

when the persons other than the owner were present for executing the mortgage deed. Unfortunately the Sub Registrar got anticipatory bail from this Court. Learned counsel for the Talathi brought this circumstance to the notice of this Court.

4) Ultimately the complainant, daughter of the owner was required to approach the Court of the Judicial Magistrate by filing private complaint. Fortunately, order under section 156(3) of the Code of Criminal Procedure was made and so the present crime at CR No.149/2016 came to be registered for offences punishable under sections 420, 406, 409, 418, 419, 467, 468, 471, 120-B, 34 of the Indian Penal Code. All these circumstances show that these days anybody can grab property of poor persons by joining hand with bank officials, revenue office and even police. Fortunately the learned Judicial Magistrate has made order under section 156(3) of the Cr.P.C. It appears that substantial loan amount was repaid on 11-2-2016.

5) The applicants from Criminal Application No.1828 of 2017 - Motilal and Mangalsing have played the role by opening fake accounts and similarly applicant No.1 Ukhdbai from Criminal Application No.1824 of 2017 was used for opening account as presence of Jainabai was to be shown. Other persons signed the document as witnesses and guarantors. The applicants from Criminal Application Nos.1824/2017 and 1828/2017 are behind the bars since 6-3-2017. This Court holds that these persons must have learnt lesson. There is no record of bad antecedents against these applicants. In view of these circumstances this Court holds that bail can be granted to the applicants from these two proceedings. However, it cannot be ignored that the owner and the complainant must have suffered loss for getting some reliefs like getting the entry of charge of the bank loan deleted from the revenue record. Therefore, each of the applicants need to make deposit of at least Rs.25,000/- by cash security in addition to routine security. This amount can be considered by the Judicial Magistrate at the time of the decision of the case and the amount can be given as compensation to the owner of the land.

6) In the result, Criminal Application No.1900 of 2017 is disposed of as withdrawn. Criminal Application Nos.1824 of 2017 and 1828 of 2017 are allowed. The applicants are to be released on bail in Crime No.149/2016 registered at Dondaicha Police Station, District Dhule for offences punishable under sections 420, 406, 409, 418, 419, 467, 468, 471, 120-B, 34 of the Indian Penal Code on their executing Personal Bond of Rs.40,000/- (Rupees Forty Thousand) with one or more solvent surety in the like amount by each of the applicant. In addition this surety, each of the applicant is to deposit Rs.25,000/- as cash security and it is not to be returned till disposal of the case. If the Court finds that the accused are guilty and compensation needs to be given to the complainant, this amount can be given to the complainant, owner. These applicants are not to tamper with prosecution witnesses. They are not to commit similar offences. The police to take these applicants in custody if they are found pressurising the complainant in any manner.

Sd/-
(T.V. NALAWADE, J.)

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