

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

CRIMINAL APPLICATION NO.3343 OF 2017

Appasaheb S/o Sarjerao Tompe ... **Applicant**
Age:48 years,Occu.Service,
R/o Pavan Nagar,Hudco
Aurangabad
Tq.& Dist.Aurangabad.

VERSUS

- 1) The State of Maharashtra
Through Commissioner of Police
Aurangabad.
- 2) The Police Inspector, ... **Respondents**
Police Station, City Chowk,
Aurangabad.

Mr. M.K.Deshpande, Advocate for the applicant
Mr.K.N.Lokhande, APP for the State.

Mr.Govind Shirsat, Advocate for original
complainant.

CORAM : K. L. WADANE, J.

DATE : 25th July, 2017

ORDER:

1. Heard Mr. Deshpande, learned counsel for the applicant and Mr. Lokhande, learned APP for the State.

2. Present Criminal Application is filed under section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No. 212/2017, registered with City Chowk, Police Station, Dist. Aurangabad for the offences

punishable under sections 406,420,467,468,120 (B), read with section 34 of the Indian Penal Code.

3. One Govind Namdeo Shirsath, resident of Aurangabad, lodged report to the police station alleging that one Dipak Laxmanrao Kamble, in collusion with City survey Officer i.e the present applicant got his name mutated in the property register card on the property of complainant. On basis of this report, Crime No. 212/2017 is registered with City Chowk Police Station, Aurangabad for offences punishable under section 406,420,467,468,120(B),read with section 34 of the Indian Penal Code.

4. Mr. Deshpande, learned counsel appearing for the applicant points out the contents of Mutation Entry No.6076 by which name of one Dipak Laxamn Kamble recorded as legal heir of Fulanbai Laxman Kamble. Subsequently, that mutation entry No.6076 has been reviewed and cancelled. Allegations against the present applicant is that he was instrumental in inserting the name of one Dipak Kamble by ignoring earlier mutation entries recorded in respect of the property, bearing No. 19938

admeasuring 459 sq.meter. It is the allegation of the prosecution that ignoring the contents of heir-ship certificate, the present applicant has prepared note on the application of Dipak Kamble that his name may be recorded on the basis of heir-ship certificate.

5. The learned A.P.P. Submits that there was no mention of the property C.T.S.No. 19938 and therefore the certificate cannot be used for taking mutation in the name of Dipak Kamble. Learned APP further submits that name Fulanai Laxmanrao Kamble, mother of Dipak Kamble was deleted long back. However, conveniently, by ignoring the other aspects, the applicant has assisted Mr. Dilip Kamble to record his name. However, from the record it appears that the applicant had put up a note on the application of Dipak Kamble and the concerned City Survey officer has taken entry by passing separate order on 02/07/2005. It was for the City Survey officer to scrutinize the papers and it was his responsibility to go through record and pass correct order ignoring the report put up by the concerned employee i.e. the present applicant, if at all it was found wrong. Learned A.P.P.

Further points out that the City Survey Officer has set aside the earlier order and Mutation Entry No. 6076. Departmental Enquiry was conduct against the applicant for negligence in duty and after completion of the departmental enquiry, his one increment is permanently stopped and for the negligent act, the applicant has been sufficiently punished by the Department. Furthermore, the alleged forged documents are in the office of the City Survey office, Aurangabad. The Investigating Officer can very well attach the same for the purpose of investigation. At the most, the applicant can be directed to attend police station for the purpose of giving Specimen handwriting and signature. No custodial interrogation of the applicant is required.

6. In view of the above, the applicant can be protected from his arrest by putting certain conditions. Hence following order:

O R D E R

- i. In the event of arrest of the applicant in connection with Crime No. 0212/2017, registered with City Chowk Police Station, Dist. Aurangabad, he shall be released on

bail on his executing P.R. Bond of Rs. 25,000/- [Rupees Twenty Five Thousand], with one solvent surety in the like amount.

- ii. The applicant shall not tamper with the prosecution evidence in any manner.
- iii. The applicants shall attend the concerned police station as and when called by the Investigating Officer and shall give his specimen handwriting and specimen signature if required by the Investigating Officer.
- iv. Criminal application disposed of.

(K. L. WADANE, J.)

JPC