

Anand

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.814 OF 2017

1. Bhika Tukaram Phatak .Applicants
2. Dnyandev Tukaram Phatak
3. Shantabai Sitaram Phatak
4. Kailas Sitaram Phatak
5. Ananta Sakharam Phatak
6. Ganpat Vitthal Dalvi
7. Vishnu Narayan Deshmukh

Vs.

The State of Maharashtra .Respondent

Mr.R.B.Raghuwanshi i/b. Mr.Ratnesh Dube, Advocate, for the
Applicants

Mr.V.V.Gangurde, APP, for the Respondent - State

CORAM : REVATI MOHITE DERE, J.

DATE : 13.06.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicants seek pre-arrest bail in connection with C.R.No.32 of 2017 registered with the Pali Police Station, District - Raigad, for the alleged offences punishable under Sections 416, 419, 463, 464, 468, 471 r/w.34 of the Indian Penal Code.

3. All the seven Applicants are the heirs of Tukaram

Bhiva Phathak. He submitted that in 1992, Tukaram died leaving behind seven heirs. He submitted that all the said persons signed a relinquishment deed with respect to their share in the property owned by Tukaram in 2005. According to the learned counsel, the son of Tarabai, one of the signatories to the relinquishment deed filed a suit as against his parents in 2005. He submitted that the Complainant's father died in 2007, whereas his mother – Tarabai died in 2012. He further submitted that the Complainant filed another suit in 2015 and as he failed to secure an injunction in the said suit, on the basis of the same allegation set out in the suit, the Complainant filed a private complaint in the Court of the learned JMFC, Pali. The learned JMFC, Pali was pleased to pass an order directing investigation under Section 156(3) of the Code of Criminal Procedure, pursuant to which the aforesaid FIR was lodged. He submitted that the documents are in the custody of the police and hence, custodial interrogation of the Applicants is not necessary.

4. Learned APP opposes the Application. He submits that Shantabai had impersonated the Complainant's mother – Tarabai, in the relinquishment deed and that there are statements of witnesses to that effect. He states that the

investigating officer has obtained a certified copy of the relinquishment deed from the office of the Sub-Registrar, Raigad.

5. Perused the papers.

6. The relinquishment deed was prepared in 2005. It appears that in 2005, the Complainant filed a Civil suit as against his parents. It is not in dispute that the Complainant's father expired in 2007, whereas his mother - Tarabai died in 2012. In 2015, the Complainant filed another suit. In the said suit, filed against the Applicants and others, it is alleged that the relinquishment deed was not signed by his mother - Tarabai, but by Shantabai and as such sought cancellation of the said relinquishment deed. On the basis of the same allegation set out in the suit, the Complainant filed a private complaint in the Court of the learned JMFC, Pali, who was pleased to pass an order under Section 156(3) of the Code of Criminal Procedure, pursuant to which the aforesaid FIR was lodged. It is not in dispute, that during the life time, the Complainant's mother - Tarabai had not made any allegation with regard to impersonation. Be that as it may, even, if Tarabai has impersonated Shantabai, custody of the Applicants is not

required for the said purpose. The documents are on record.

7. Considering the aforesaid, custodial interrogation of the Applicants is not required. Accordingly, the Application is allowed and the Applicants are granted pre-arrest bail on the following terms & conditions:-

O R D E R

(i) In the event of arrest, the Applicants be enlarged on bail, on executing PR Bond in the sum of **Rs.10,000/- each** with one or two sureties in the like amount;

(ii) The Applicants shall attend the concerned Police Station **as & when called** for by the investigating officer;

(iii) The Applicants shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)