

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1346 OF 2016

Mr. Praveen Ratilal Bafana ...Applicant

Versus

State of Maharashtra ...Respondent

WITH

CRIMINAL APPLICATION NO. 744 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO. 1346 OF 2016

Neelam Madan Senapati ...Intervenor

In the matter between

Mr.Praveen Ratilal Bafana ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr.A.P.Mundargi, Senior Advocate i/b. Mr.Hrishikesh Mundargi for the Applicant.

Mr.Y.M.Nakhwa, APP for the Respondent-State.

Mr. Anwar Landge i/b. Mr.Harshad Bhadbhade for the Intervener.

Mr.Pramod A. Kshirsagar, API, Chatursinghi Police Station, Pune (present)

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CORAM : MRS.MRIDULA BHATKAR, J.

DATE : 27th February 2017

P.C.:

1. This application is moved by the applicant-accused for pre-arrest bail as the applicant-accused apprehend arrest in C.R. No. 273 of

2016 registered with Chatursinghi Police Station, Pune on 27th June 2016 at the instance of Mrs. Dr. Nilam Madan Senapati, widow of late Madan Murlidhar Senapati.

2. It is the case of the prosecution that late Murlidhar M. Senapati, the father-in-law of the complainant was owner of the plot No. 29 ad-measuring 9800 sq. ft. situate at Shivaji Co-operative Housing Society Ltd. Murlidhar M. Senapati died in the year 1983. Thereafter, the said plot was inherited to Madan M. Senapati, who expired on 10th November 2008 and he had executed a Will dated 23rd August 2008 by which he had bequeathed the entire property in favour of his wife Nilam and his son Mukul. Accordingly, the society had passed a resolution. On 3rd September 2015, she has received a message from Pune Municipal Corporation that her title transfer application is approved by Pune Municipal Corporation. She rushed to the corporation and at that time she found that a forged Will of her father-in-law Murlidhar Senapati dated 11th July 1983 was presented by which he had bequeathed his entire property to one Balasaheb Gajanan Magar, wherein he has mentioned that he had no legal heirs.

3. The case of the complainant that the statement on the Will that her father-in-law died issue less is factually incorrect when her father-in-law had four children. On perusal of the photocopy of the said

Will, it is found that it is a bogus Will, on which one Gulab Omkar Chopdekar and Shaikh Kadar Mohiuddin, who are co-accused have signed as witnesses and the said Will was registered on 8th April 2015 with the Assistant Registrar/ Dy. Registrar, Haveli, 17. On enquiry, she found that the Share Certificate and No Objection Certificate of Shivaji Co-operative Housing Society Ltd., which were produced in the corporation were also bogus. Therefore, she approached the police and on her information the offence was registered against the present applicant-accused. As per the prosecution, the applicant-accused is a builder with whom all forged documents especially original No Objection Certificate, Share Certificate and Will were handed over by co-accused Balasaheb Magar and therefore, his custody is required.

4. The learned senior counsel for the applicant-accused has submitted that the applicant-accused is an innocent purchaser of the said plot. He, being a builder, was interested in developing the said plot offered by Balasaheb Magar in whose favour the property was transferred by deceased Murlidhar M. Senapati. The applicant-accused has accepted the said offer. No agreement of sale or sale deed had ever taken place between the parties. The applicant-accused had shown interest in accepting the said plot. However, he is not in possession of any document especially Will or original Share Certificate or No

Objection Certificate given by the society. The learned senior counsel has further submitted that one Vinod Gaikwad, who has contacted the applicant-accused through Balasaheb Magar, the alleged owner of the said plot is granted pre-arrest bail by the learned Additional Sessions Judge. He has further submitted that the applicant-accused has not played any role in creating the forged documents. He is innocent and his custody is not required. He further submits that the complainant has filed a Civil Suit in Civil Court, Pune and that is pending. Photocopy of these documents i.e. Will, No Objection Certificate and Share Certificate are available with the police for investigation. The applicant has attended the police station nearly for 30 times and therefore, interim bail be confirmed.

5. The learned prosecutor and the learned counsel for the intervener have opposed this application.

6. The learned prosecutor relied on the papers of the investigation and the statement of Sharad G. Phadtare, chairman of the society. So also, one Ramesh Thapa, watchman of the said plot. He has submitted that the applicant-accused is the person, who has initiated the said plot. The learned prosecutor has further submitted that the original documents are with the applicant-accused and the same to be recovered from him. During the interrogation of other accused persons,

the police obtained authentic information that the original documents are lying with the applicant-accused. The learned prosecutor further submitted that the Investigating Officer has collected the photocopy of the Will and the forged documents from the Revenue Department and his custody is required.

7. Perused the F.I.R., statements of the witnesses and the documents, which are placed before me, I have considered the submissions of the learned Senior Counsel, the learned prosecutor and the learned counsel for the intervener. The Will is *ex-facie* forged. After going through the papers, *prima-facie* I am of the view that the applicant-accused is not a bonafide purchaser. It appears from the statement of the chairman and the watchman of the society that the applicant-accused has played very active role in the present crime. All documents i.e. original Will, No Objection Certificate and Share Certificate of the society are required for the effective investigation. Moreover, it appears that there is no agreement or any MOU between Balasaheb Magar and the present applicant-accused, yet, the possession of the said plot has been taken by the applicant-accused. This fact itself speaks in volumes. He is the beneficiary of the forged documents. Therefore, in order to procure all the original documents, the custodial interrogation of the applicant-accused is required.

8. Hence, Anticipatory Bail Application is rejected.

9. In view of the order passed in Criminal Anticipatory Bail Application No. 1346 of 2016, Criminal Application No. 744 of 2016 does not survive and the same stands disposed of.

(MRIDULA BHATKAR, J.)