IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2067 OF 2017

PRAKASH RAJARAM TAWRE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

ANTICIPATORY BAIL APPLICATION NO.2068 OF 2017

RAMKISAN SHARDAPRASAD PATEL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

WITH

ANTICIPATORY BAIL APPLICATION NO.2069 OF 2017

CHHAYA RANGNATH GARJE)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Mr.Raju D. Suryawanshi, Advocate for the Applicants.

Ms.P.P.Shinde, APP for the Respondent – State in ABA No.2067 of 2017 and 2069 of 2017.

Mr.R.M.Pethe, APP for the Respondent – State in ABA No.2068 of 2017.

Mr.Rohan Gonjari, Police Sub-Inspector, Shantinagar Police Station, present in the court.

CORAM : A. M. BADAR, J.

DATE : 8th DECEMBER 2017

P.C. :

1 Applicants/accused in Crime No.I-151 of 2015 for offences punishable under Sections 420, 465, 466, 467, 468, 471, 120B read with 34 of the Indian Penal Code (IPC), registered with Police Station Shanti Nagar, Thane, at the instance of Jayantilal Gada, by these applications, are seeking pre-arrest bail.

2 Heard the learned advocate appearing for applicants/accused. By drawing my attention to the initial statement of First Informant Jayantilal Gada, when the matter was at the stage of inquiry, the learned advocate argued that the First Informant had not pointed out accusing finger at applicant/accused Prakash Tawre. He further argued that the First Information Report (FIR) itself shows that alleged forged Power of

Attorney was recovered by police from applicant/accused Chhaya Garje. The learned advocate further drew my attention to the plaint in the civil suit filed by the First Informant Jayantilal Gada as well as his wife Leelavati against the accused persons excluding applicant/accused Prakash Taware, seeking relief of declaration that the documents such as Power of Attorney and Sale Deeds allegedly executed by the First Informant, his wife as well as accused persons are sham, bogus, illegal and not binding on the plaintiffs. The learned advocate further submitted that ultimately Consent Decree was passed in the said suit as applicants/accused Chhaya Garje and Ramkisan Patel along with the co-accused excluding Prakash Taware accepted claim of the plaintiffs. In this view of the matter, the learned advocate for applicants/accused submits that custodial interrogation of present applicants/accused is not warranted.

3 The learned APP opposed the applications by contending that subsequent act of present applicants/accused does not efface commission of criminal acts done by them from the

record, and therefore, custodial interrogation of present applicants/accused needs to be ordered.

4 I have carefully considered the rival submissions and also perused the relevant record.

5 The First Informant Jayantilal Gada reported to police that he is owner of Plot No.5-B admeasuring 1012 sq.mts. having purchased vide Conveyance Deed dated 14th February 1998. He further alleged that when he attempted to procure 7/12 Extract of the said plot of land, he came to know that his land was transferred initially in the name of applicant/accused Ramkisan Patel and subsequently, in the name of Omkar Developers of which Ketan Taware – the son of present applicant/accused Prakash Tawre, is one of the partners. The First Informant further averred that these proceedings are continued on the basis of forged Power of Attorney, allegedly executed by applicant/accused Chhaya Garje. The First Informant further averred that way back in the year 2014, applicant/accused Prakash Tawre, who happens to be a

Corporator, insisted sons of the First Informant to transfer the subject land in his favour and as they refused, applicant/accused Prakash Tawre threatened them with consequence that their land will never be developed.

6 Subsequent developments which took place are to the effect that suit came to be filed by the First Informant and his wife challenging all disputed documents for a declaration that those documents are sham, bogus, illegal and not binding on the plaintiffs. Accused persons, except applicant/accused Prakash Tawre, were parties to that suit. The defendants i.e. accused persons accepted claim of the plaintiffs and signed the Consent Terms declaring that the plaintiffs therein i.e. the First Informant and his wife are true and lawful owners of the subject land. It is further agreed between the parties that all disputed documents are not binding on the plaintiffs. That is how the subject Civil Suit bearing no.105 of 2016 came to be decreed in favour of plaintiffs i.e. the First Informant and his wife.

7 It is seen that the forged Power of Attorney allegedly executed in favour of applicant/accused Chhaya Garje is in possession of the Investigator. The disputed documents are declared null and void. Rest of the documents, if any, can be procured by the Investigator by asking applicants/accused to join the investigation. Considering subsequent developments in the matter, I see no reason for ordering custodial interrogation of applicants/accused in the matter which is primarily based on documentary evidence. Therefore the order :

ORDER

i) The applications are allowed.

ii) In the event of arrest in Crime No.I-151 of 2015 for offences punishable under Sections 420, 465, 466, 467, 468, 471, 120B read with 34 of the Indian Penal Code (IPC), registered with Police Station Shanti Nagar, Thane, applicants/accused shall be released on bail on their executing P.R.Bond in the sum of Rs.15,000/-, and on furnishing surety in like amount, by each of them.

iii) As a condition of this order, applicants/accused shall attend the concerned Police Station on every Sunday, in between 11.00 a.m. and 1.00 p.m. till filing of the charge-sheet, and shall co-operate the Investigating Officer in the investigation of the crime, by tendering the necessary documents and requisite information to the Investigating Officer.

iv) Applicants/accused shall not tamper with the prosecution evidence.

v) Applicants/accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

vi) The applications are disposed of.

(A. M. BADAR, J.)