

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO. 707 OF 2016

(SHRI. SHESHRAO BAPURAO GOYATE...VS.. STATE OF MAH. THR. P.S.O. PS BADNERA,
DISTT.AMRAVATI(CITY))

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R. M. Patwardhan, Advocate for Applicant.
Shri N. R. Patil, A.P.P. for Non-applicant.

CORAM : Z.A.HAQ, J.

DATED : 6th JULY, 2017.

Heard.

The applicant, apprehending arrest in connection with crime registered against him for the offences punishable under Sections 417, 418, 420, 465, 467, 468, 471 of the Indian Penal Code, has sought pre-arrest bail.

The applicant has filed Criminal Application (APL) No.750 of 2016 under Section 482 of the Code of Criminal Procedure praying that the First Information Report on the basis of which crime for the above offences is registered against the applicant be quashed. In this Criminal Application (APL) No.750 of 2016, the applicant has prayed for an interim order in the following terms -

“Kindly stay the effect and operation of the First Information Report in Crime No.466/2016 dated 24.08.2016 registered by respondent No.1, the P. S. Badnera, Amravati city during pendency of the present application, kindly direct the respondent No.1/investigation officer not to take coercive

action against the applicant & not to file charge-sheet during pendency of the present application.”

The learned advocate for the applicant has filed a pursis stating that prayer for interim relief in Criminal Application (APL) No.750 of 2016 is to the effect that charge-sheet should not be filed against the applicant.

The accusations against the applicant are that the applicant is making claim over the property in question on the basis of gift - deed alleged to have been executed by Pandurang Banarse (father of the complainant). According to the Investigating Agency, the applicant relies on an authority letter alleged to have been issued by Pandurang Banarse (father of the complainant) authorizing the applicant to deal with the property in question.

The facts on record show that the applicant has filed Special Civil Suit No.20 of 2016 against Pratapsingh s/o Pandurang Banarse, Bapu S/o Pandurang Banarse and four other legal heirs of Pandurang Banarse and two more defendants, who have purchased the property in question from the defendant No.1 – Pratapsingh Pandurang Banarse by registered sale-deed. The applicant has prayed that the sale-deeds executed on 30th December, 2014 and 27th January, 2015 be declared as null and void. The applicant has prayed for other ancillary reliefs. The Civil Suit is pending before the Civil Court at Amravati. In this Civil Suit, the applicant is seeking decree for declaration that he is the owner of the property in question on the basis of gift – deed executed by Pandurang Banarse.

This Court has granted protection to the applicant by the order passed on 25th October, 2016 imposing condition of attendance at the police station. The non-applicant has not made any grievance that the applicant has not complied with the order passed by this Court and has not co-operated with the Investigation Agency.

Considering the facts of the case, pendency of Civil Suit and as the non-applicant has not been able to point out that the custody of the applicant is required for further investigation, the order passed by this Court on 25th October, 2016 granting protection to the applicant is confirmed.

The application is **allowed** accordingly.

JUDGE

PBP