

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 883 OF 2018
Smt. Seema M. Dandekar and ors. vs. State of Maharashtra
and anr.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. V.A.Gangal i/by A.N.Deshmukh.
Mrs.A.A. Takalkar, APP for the State.

CORAM : A.S.GADKARI, J.
DATE : 15th June, 2018

P.C.

1. This is an application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in CR No.I-10-2018 registered with Gholwad Police Station, District Palghar under Sections 402, 404, 441,442, 448, 451 read with 34 of the Indian Penal Code.
2. By an Order dated 26.4.2018 the applicants were granted interim relief.
3. Heard the learned counsel for the applicants and the learned APP. Perused the record of investigation.
4. The first information report is lodged by the

Administrator General and Government Trustee State of Maharashtra against the applicants. It is the case of the prosecution that Mr. Hasham Tahavoor Ali Khan was landlord of certain immovable property lying and situated at Dahanu, District Palghar. As the said Hasham Tahavoor Ali Khan was a bachelor and died intestate the Administrator General of State of Maharashtra filed Misc. Petition (L) No.220 of 2009 before this Court under the Administrator General's Act 1963 for taking possession and care of the property of the said deceased. By an Order dated 17.4.2009 the Administrator General is appointed to be the trustee of the said property of Mr. Hasham Tahavoor Ali Khan. By the said Order the Officer in-charge of the Police Stations Gholwad and Dahanu were directed to provide police protection to the Administrator General. That, the applicants claim to be the legal heirs of one Smt. Vansubai Dandekar and are claiming the said properties through her. That the said Vansubai was staying with Mr. Hasham Ali Khan during his life time. After the Chief Administrator and the Govt. Trustee noticed that the

applicants herein by adopting illegal modes have usurped the property of Mr. Hasham Tahavoor Ali Khan, initially issued notice for handing over the possession of the said property. However, instead of vacating the suit land, the applicants continued to cultivate it and the same is being done since 2013. It is further the case of the prosecution that, for last nine years the applicants are taking the proceeds and/or benefits of the said property and have refused to submit the said land to the jurisdiction of the Administrator General of Maharashtra. The Chief Administrator and the Government Trustee after conducting detailed enquiry in the matter has reached to a conclusion that the applicants herein have usurped the property of the deceased and also by operating bank accounts of the deceased, have committed crime as contemplated under the various provisions of law as mentioned above.

5. Mr. Gangal, the learned counsel appearing for the applicants submitted that the applicants are the legal heirs of the said Smt. Vansuai Dandekar who in her life time was

living with the said Mr. Hasham Tahavoor Ali Khan as his wife and the applicant No.1 is the daughter in law of the said Smt. Vansubai. The applicant No.2 is the grand daughter of Smt. Vansubai and the applicant No.3 is the close relative of the said Smt. Vansubai. He submitted that thus the applicants are successors in title of the said property and therefore are entitled to occupy and use the same. He further submitted that the applicants are having their permanent residence in the said property and the alleged two rooms which have been claimed to have been usurped by the applicants are in fact their permanent residences. He submitted that the Chief Administrator and the Government Trustee Mr. M.K.Patil has lodged false case against them without verifying the said fact. He therefore prayed that the applicants may be protected by pre arrest bail.

6. The first information report lodged by the Chief Administrator and Government Trustee clearly reveals that the Office of the Administrator General of Maharashtra after conducting in depth enquiry about the claims of the

applicants and after taking into consideration the orders passed by this Court has reached to a conclusion that the applicants herein have taken illegal possession of the said property and are using it for their personal benefit and the proceeds thereof have been appropriated by the applicants for their own use and benenefit. Prima facie there is sufficient material on record to indicate the clear complicity of the applicants in the present crime. Assuming for the sake of arguments that, the applicants are residing in the said alleged two rooms mentioned in the FIR and as have been claimed by the applicants, it appears that the applicants have usurped the landed property which was and is in possession of the Administrator General as per the Order dated 17.4.2009 passed by this Court. Thus, it is prima facie clear that, the applicants have committed the offence as alleged against them.

7. After taking into consideration the material available on record, serious allegations against the applicants and the gravity of the offence, this Court is of the view that the applicants do not deserve to be protected by pre-arrest bail.

8. Application is accordingly rejected.
9. At this stage Shri. Gangal, learned counsel appearing for the applicants submitted that the applicants would like to prefer an appeal against the present Order before the Hon'ble Apex Court and therefore, interim relief granted by an Order dated 26.4.2018 be continued for a period of three weeks from today.
10. At his request, interim relief to continue upto 8.7.2018.

(A.S.GADKARI, J.)