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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.173 OF 2019

1. Sanjay Shivaji Palve,
2. Sau. Sangita Sanjay Palve ..Applicants.
V/s.
The State of Maharashtra ..Respondent.

Mr.Rameshwar N.Gite for the applicants.

Mr. A.A. Palkar, APP for the respondent-State.

Mr.H.M. Inamdar with Mr.Sanjay K.Pokhade for complainant.

CORAM : NITIN W. SAMBRE, J.

DATE : JANUARY 21, 2019

P.C.:-

Heard learned counsel for the applicant and learned APP for the State.

2. In crime No.I-178/2018 for offence punishable under sections 347, 420 and 506 read with 34 of the Indian Penal Code registered with Sinnar police station, District Nashik, the applicants are seeking pre-arrest bail.

3. The prosecution story is, on misrepresentation, the present applicants took the complainant to the office of Registrar

promising to process documents for releasing of her pension and through misrepresentation, they got executed sale deed of agricultural land.

4. Learned counsel for the applicants submit that the consideration paid to the complainant was deposited in her account and whether the compensation is adequate or not is an issue which can be looked into by the Civil Court.

5. Learned APP assisted by learned counsel for the complainant would urge that the custodial interrogation is necessary for the reason that the money, after the purchase of the land part of which was transferred to a third person, from which consideration of payment was made to the complainant. It is also claimed that since the applicants and complainant are in relation, the same was misused by the applicants.

6. Heard rival submissions.

7. The payment of consideration in the account of the complainant is not an issue which is under dispute. However, what is disputed is the transaction was not genuine and the entire transaction is based on misrepresentation by the applicants to the complainant.

8. The said issue, in my opinion, cannot be gone into at this

stage of prosecution, as that can be looked into by a competent Civil Court at the behest of either parties.

9. Once it is accepted that consideration was received by the complainant, the fact remains that there is a presumption that the document was executed by the complainant. That being so, the custodial interrogation of the applicants is not warranted. In view thereof, the applicants deserve to be released on bail. Hence the order :-

- i) In the event of arrest in Crime No.I-178/2018 for offence punishable under sections 347, 420 and 506 read with 34 of the Indian Penal Code registered with Sinnar police station, District Nashik, the applicants be released on bail on their executing P.R. bonds of Rs.25,000/- each with one or two sureties each in the like amount;
- ii) The applicants shall attend the Investigating officer on 24th, 29th and 31st January, 2019 between 10.00 a.m. to 12.00 noon and thereafter as and when directed;
- iii) The applicants shall not influence the prosecution witnesses or tamper with the evidence;
- iv) The applicants shall co-operate with the investigating agency;
- v) The application stands disposed of accordingly.

(NITIN W. SAMBRE, J.)