

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.1303 OF 2018

Mirza Ajaz Javed Beg

.... Applicant

versus

The State of Maharashtra & Ors.

.... Respondents

.....

- Mr.Chetan Damre, Advocate for Applicant.
- Mr.S. H. Yadav, APP for the State/Respondent.
- Mr.Vishal V. Giri, API, Bhadrakali Police Station, Nasik city present.

CORAM : SARANG V. KOTWAL, J.

DATE : 10th JUNE, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.I 273 of 2018 registered with Bhadrakali Police Station, Nasik, under sections 465,467,468,430 and 385 r/w. 34 of the Indian Penal Code.
2. The F.I.R. is lodged on 17/05/2018 by one Zaki Ahamad Gulam Husain Khatib. It is mentioned in the F.I.R. that he has purchased major portion of city survey No.3823(A) at

Chowk Mandai, Bhadrakali, Nasik on different occasions i.e. between 1993 and 1994. On the first occasion he had purchased it from one Sayyad Babu Abbas, Sayyad Nisar Abbas and Sayyad Sadik Abbas. To be on safer side he had also entered into transaction of the same property with Munvarbi Gulam Dastgir, Rabiyyabi Sayyad Chand and Merunissa Sayyad Ikramuddin. To be sure about his right he filed Special Civil case No.6/2000 in the court of C.J.S.D., Nasik for the declaration and other reliefs against Sayyad Babu Abbas, Sayyad Nisar Abbas and Sayyad Sadik Abbas. Further proceedings for possession etc. are still pending before Civil Court.

3. In the year 2017 the first informant received a notice from City Survey Officer, in respect of City Survey No.3823(A) for which some application for registration of WAKF property was pending. After that he came to know that Sayyad Habib Shah Fakir Wakf Alal Aulad, Nasik was claiming ownership of the same property. On further inquiry he came to know that aforementioned Sayyad Babu Abbas, Sayyad Nisar Abbas and Sayyad Sadik Abbas alongwith others were on the management board of the said Wakf.

The present applicant was also one of the persons in the management. Thereafter the first informant lodged his objection with Maharashtra State Wakf Board, Aurangabad. It is his further case that all the aforesaid mentioned persons alongwith the applicant demanded huge amount to settle the matter. Based on these allegations, the F.I.R. was lodged.

4. Heard learned counsel Mr. Chetan Damre for the applicant and learned A.P.P. Mr. S. H. Yadav for the State.

5. Learned counsel for the applicant submitted that the present applicant is an Advocate and is working as Public Prosecutor in the court of J.M.F.C. Chandwad. The applicant has not committed any offence. The allegations reveal civil dispute. There is no criminality attached to the entire transaction. He further submitted that the applicant was always available since registration of F.I.R. and he was never called for investigation. He, therefore, submitted that there is no necessity for custodial interrogation of the applicant.

6. Learned A.P.P. submits that the offences of forgery and cheating are made out from the allegations and applicant does not

deserve grant of anticipatory bail.

7. Considering the entire allegations, it is quite clear that there are claims and counter claims. There are civil proceedings between the parties. The first applicant has lodged objection about ownership of the said property with Maharashtra State Wakf Board, Aurangabad and ultimately that authority will decide further issues regarding ownership and possessory rights over the suit property.

8. Looking at the entire allegations, it appears that the dispute is more of a civil nature. If the aforesaid Sayyad Habib Shah Fakir Wakf Alal Aulad does not have ownership title over the property, the rights of the first informant shall remain unaffected. Prima facie it is difficult to attribute any criminal offence to the present applicant. According to the learned counsel for the applicant is regularly appearing in the court at Chandwad and for more than a year the investigation agency did not think it necessary to arrest him. In view of this, custodial interrogation of the applicant is not necessary.

9. Hence, the following order :

ORDER

- (i) In the event of his arrest in connection with C.R. No.I 273 of 2018 registered with Bhadrakali Police Station, Nasik, the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) The applicant shall attend the police station as and when called and shall co-operate with the investigation.
- (iii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)