

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1463 OF 2019

1. Mohanlal Jairupchand Dave	]	
2. Arjun Mohanlal Dave	]	... Applicants

Versus

1. The State of Maharashtra	]	
2. Ranjanabai Revashankar Dave	]	... Respondents

Mr. Sujay Gangal i/b Mr. Ravi Shinde a/w Mr. Gaurav Gangal,
 Advocate for the Applicants.

Ms. S.S. Kaushik, APP for the State/Respondent No.1.

Mr. Yashpal Thakur, Advocate for Respondent No.2.

PSI Shivaji Take attached to Bhosari Police Station, District Pimpri
 Chinchwad present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 5th AUGUST, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with
 C.R.No.462/2019 registered with Bhosari Police Station, District
 Pimpri Chinchwad u/sec. 420, 406 r/w 34 of I.P.C.

2. The FIR is lodged by one Ranjanabai Dave on 24/04/2019. She
 has stated in her FIR that, her husband had left her house around 8
 years before lodging of the FIR and his whereabouts were not known.

Her only son had died in the year 2015 and therefore she was residing with her brothers Murlidhar and Arjun. She is unable to see from her one eye. She was owning land at village Mudtara, Taluka Jaswantpura, District Jalor in Rajasthan. On 22/01/2018, her brother Murlidhar who was residing there informed her that, her land was sold. The informant's nephew inquired with her. That time, she told him that, the present applicants and one Vilas Dave had taken her to Pune in December 2017 and had obtained her thumb impression on some documents. The Applicant No.1 is her brother-in-law i.e. husband's brother and the Applicant No.2 is Applicant No.1's son. The informant recollected that both these applicants had told her that, her thumb impression was necessary to complete the documentation in respect of her pension. However, later on it was transpired that, thumb impression was obtained on a Power of Attorney which was notarised before a notary. That Power of Attorney was used to complete the sale transaction of her land in Rajasthan. The informant was kept in dark. She was not given any money from the transaction and thus this offence was committed. Accordingly, she lodged her FIR.

3. Heard Mr. Sujay Gangal, Ld. Counsel for the Applicants, Ms. S.S. Kaushik, Ld. APP for the State/Respondent and Mr. Yashpal Thakur, Ld. Counsel for Respondent No.2.

4. Ld. Counsel for the applicants submitted that, the informant was told about the entire transaction and it was entered into with her consent which is evident from her thumb impression appearing on the Power of Attorney. He further submitted that, the informant was paid her share of consideration. He therefore submitted that, no offence is committed.

5. Ld. Counsel for the first informant as well as Ld. APP submitted that, the informant's thumb impression was obtained through false representation made to her that, her thumb impression was necessary for completing the documents in respect of her pension. By taking advantage of her helplessness and partial blindness, this offence was committed. The first informant is residing with her brothers and there is no one to look after her. The manner in which this helpless lady was cheated and deprived of her property, the applicants are not entitled for any protection.

6. I have considered these submissions. At this stage, the offence is clearly made out in the FIR. The thumb impression was obtained on a notarised document. The document was not registered. The registration of such documents would have caused difficulties for the offenders. Thus, their intention to keep the transaction secret is obvious from the FIR. Therefore, custodial interrogation of the applicants is necessary. However, taking into account the fact that, the Applicant No.1 is 80 years of age, I am inclined to grant him protection of anticipatory bail but he will have to co-operate with the investigation. The Applicant No.2 is not entitled for interim protection. It is made clear that, only because of old age of Applicant No.1 he is protected. Hence, the following order.

ORDER

1. The application of the Applicant No.2 - Arjun Mohanlal Dave is hereby rejected.
2. In the event of his arrest in connection with C.R. No.462/2019 registered with Bhosari Police Station, District Pimpri Chinchwad, the Applicant No.1 - Mohanlal Jairupchand Dave is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/-

(Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

3. The Applicant No.1 - Mohanlal Jairupchand Dave shall attend the concerned police station as and when called and shall co-operate with the investigation.
4. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)