

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

Criminal Application (ABA) No.294 of 2019
(Dadaji Sadu Nikhade .vs. State of Maharashtra through PSO PS Wani, Dist.
Yavatmal)
with
Criminal Application (ABA) No.301 of 2019
(Satish Pundlik Keram.vs. State of Maharashtra through PSO PS Wani, Dist.
Yavatmal)

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

Court's or Judge's orders.

Mr. J.R. Kidilay, Advocate for Applicants.
Mr. V.P. Maldhure & Mr. J.Y. Ghurde, APPs for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 19, 2019.

The applicants herein are accused Nos. 1 and 3 in FIR dated 2.3.2019 registered against them and one other accused for allegedly having committed offences under Sections 420, 468, 471, 182 read with 34 of the I.P.C.

2. The allegations made by the complainant herein are that the accused no.1 i.e. applicant in Criminal Application (ABA) No. 301 of 2019 is a petition-writer who forged a document i.e. an agreement dated 15.05.2017 wherein it was shown that the complainant agreed to sell particular piece of agricultural land to the accused no.3 i.e. applicant in Criminal Application (ABA) No.294 of 2019. It was claimed by the complainant that such forgery came to his notice when a suit was filed by the accused no.3 before the Civil Court for declaration in respect of sale deed dated 16.05.2017, wherein a

reference was made to the aforesaid agreement dated 15.05.2017. The complainant contends that he has sold the said piece of land to a purchaser on 02.04.2018 and that the aforesaid agreement dated 15.05.2017 was a forged document shown to have been executed and this was a result of illegal action undertaken by all the accused in the present case. On this basis, FIR was registered on 02.03.2019 in respect of the aforesaid alleged act on the part of the accused dated 15.05.2017.

3. The learned counsel appearing for the applicants points out that the accused no.3 herein filed a Special Civil Suit No.21 of 2018 on 04.05.2018 before the Court of Civil Judge, Senior Division, Kelapur, seeking a declaration that sale deed dated 16.05.2017 shown to have been executed by him in favour of certain purchaser was a forged document and that it was required to be declared as null and void. In this suit, the accused no.3 made the persons shown as purchasers in sale deed dated 16.05.2017 as defendants, as also his own son who was said to have been party to such a fraudulent act. Since a reference was made in the aforesaid sale deed dated 16.05.2017 to the agreement dated 15.05.2017 mentioned above, the accused no.3 also made the complainant as defendant in the said suit.

4. It is the case of the applicants herein that when the complainant received suit summons some time in September,2018, he seems to have thought

over the matter and after about six months, approached the Police in March, 2019 with the aforesaid report leading to registration of FIR against the applicants and other accused. According to the applicants the dispute between the parties is essentially of a civil nature and it was when the accused no.3 filed the aforesaid suit and the suit summons were received by the defendants including the complainant herein, that the criminal process was sought to be set in motion against the applicants as a counter blast and to dissuade the accused no.3 from pursuing the aforesaid civil suit filed by him.

5. In this backdrop, it is contended by the learned counsel appearing for the applicants that they deserved to be granted anticipatory bail . In fact, while issuing notice in these applications, this Court had granted ad-interim protection to both the applicants.

6. The learned APPs appearing in these two applications have opposed the grant of anticipatory bail, on the ground that this is a case of forgery committed by the accused No.1 at the behest of accused Nos. 2 and 3. It is claimed that custody of the applicants is required in order to find out the manner in which such forgery was carried out.

7. Heard learned counsel for the rival parties and perused the material on record.

8. A perusal of the material on record shows that

the accused no.3 filed the aforesaid suit seeking declaration as against sale deed dated 16.05.2017, on 04.05.2018 itself. It appears that the suit summons were served on all the defendants including the complainant herein and it is thereafter that the aforesaid report was lodged by the complainant leading to registration of FIR dated 02.03.2019. The sequence of events in the present case shows that both the complainant as well as the accused No.3 are claiming that the alleged agreement dated 15.05.2017 was a forged document. This aspect would certainly require investigation and it would also be subject matter of determination before the Civil Court in the aforesaid civil suit. But, the material presently on record does not seem to justify putting the applicants behind bars in the present case, particularly in the backdrop of the civil dispute already raised by the accused no.3 before the competent Civil Court.

9. There is also no material to show that the applicants violated any of the conditions imposed upon them when ad-interim protection was granted by this Court.

10. In view of the above, the applications deserve to be allowed. Accordingly, the applicants are granted anticipatory bail in terms of the interim orders passed in their favour and subject to the conditions specifically stated in the said interim orders.

11. It is reiterated that the applicants shall

cooperate with the investigation and that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants.

JUDGE

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