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IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.966 OF 2020

Bhatu Kashinath Bhadane ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri A.S. Sawant, Advocate for applicant
Shri V.S. Badakh, A.P.P. for State, assisted by
Shri K.C. Sant, Advocate for original complainant
.....

WITH

CRIMINAL APPLICATION NO.1981 OF 2020

Sardarsing s/o Fakira Rajput ... APPLICANT

VERSUS

Bhatu Kashinath Bhadane & anr. ... RESPONDENTS

.....
Shri K.C. Sant, Advocate for applicant
Shri A.S. Sawant, Advocate for respondent No.2
Shri V.S. Badakh, A.P.P. for State
.....

WITH

ANTICIPATORY BAIL APPLICATION NO.1044 OF 2020

Ratilal Pandurang Thakre ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

.....
Shri G.D. Jain, Advocate holding for
Shri V.P. Golewar, Advocate for applicant
Shri V.S. Badakh, A.P.P. for respondent/ State
.....

CORAM: R.G. AVACHAT, J.
(Vacation Court)

DATED : 12th NOVEMBER, 2020.

ORDER :

Criminal Application No.1981/2020 is allowed. The original complainant is permitted to assist learned A.P.P. in Anticipatory Bail Application No.966/2020.

2. Both these Anticipatory Bail Applications are decided by this common order since they arise from one and the same Crime No.141/2020 (F.I.R. No.277/2020), registered at Sakri Police Station, Taluka Sakri, District Dhule for the offences punishable under Sections 420, 465, 467, 468, 470, 477 read with Section 34 of the Indian Penal Code.

3. Heard learned counsel for the applicants and learned A.P.P. for the State, assisted by learned counsel for the original complainant. Perused the First Information Report (F.I.R.) and the related papers.

4. The F.I.R. has been lodged on 23/9/2020 by Sardarsing Rajput. It is his case that, agricultural land Gut No.8/1, admeasuring 16 acres, situated at Nagpur (V), Taluka Sakri, District Dhule belongs to him. Since the informant is of old age, the land is being looked after and cultivated by co-brother of informant's son. In the year 2015, the present applicants and 4 others, including the village Sarpanch forged a Will in the name of the informant. Documents necessary for making a false Will in the name of the informant were also prepared. The Will came to be registered in the office of Sub-Registrar, showing it to have been executed by the informant. Under the Will, the land belonging to the informant is shown to have been bequeathed to one Laxman Chavan, Banabai Marnar (wife of the Sarpanch) and Kishan Baliram Patil.

5. The informant, because of his old age, has been staying with his daughter. The son of the informant had preferred an application to the Talathi to record his name as a cultivator in the revenue record. On 30/7/2020, the same persons executed another forged document, showing it to be an instrument cancelling the Will executed by the informant on 13/2/2015.

6. In short, the applicant and 4 others are alleged to have fabricated and forged a Will in the name of the informant in February 2015 and later on executed a document of cancellation of the Will.

7. The learned A.P.P. and learned Advocate appearing for the informant submitted that, applicant Bhatu Bhadane has criminal antecedents. Both the applicants have indulged in forging and fabricating forged documents. Custodial interrogation of both the applicants is required for investigation.

8. The learned Advocates for the applicants would, on the other hand, submit that the applicants have simply signed as attesting witnesses to the Will and documents cancelling the said Will. The applicants are not beneficiaries under the Will. The village Sarpanch made them to attest the Will and the subsequent document. No custodial interrogation of the applicants is required. They, therefore, urged for grant of the applications.

9. Offences of forging and fabricating of a Will in the name of the informant and later on cancelling it appear to have been made out. The informant is 87 years of age. He was not

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residing in the village. His land in the village is shown to have been bequeathed in favour of three persons, one of whom is wife of the village Sarpanch. Both the Sarpanch and his wife are the accused in this crime. The applicants herein have attested false and fabricated Will. Fortunately for the informant, the Will has been cancelled by executing another forged document on 30/7/2020. The applicants are not the beneficiaries under the Will. Since a Will starts speaking when testator stops speaking, no right, title and interest under the forged Will has been created in favour of the beneficiaries under the Will. Moreover, by subsequent forged document, the Will has been cancelled. The applicants claim to have signed the Will as attesting witnesses, at the instance of village Sarpanch. Nature of offence is documentary. Custodial interrogation of the applicants is not required. Moreover, no right, title and interest has accrued under the forged Will. The said document, therefore, cannot be said to be a valuable security. In this factual backdrop, I am inclined to grant anticipatory bail to both the applicants. Hence the order :-

ORDER

- (i) Both the applications are allowed. In the event of arrest of the applicants in connection with Crime No.141/2020 (F.I.R. No.277/2020), registered at Sakri Police Station, Taluka Sakri, District Dhule for the

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offences punishable under Sections 420, 465, 467, 468, 470, 477 read with Section 34 of the Indian Penal Code, they shall be released on bail on furnishing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) each with with one surety in the like amount.

- (ii) The applicants shall appear before the investigating officer as and when required for investigation purpose.

(R.G. AVACHAT, J.)

fmp/-