

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

ANTICIPATORY BAIL APPLICATION NO.1062 OF 2020

**RAJGOPAL VISHNUDAS GUDGILLA (SHARMA) AND ANR
VERSUS
THE STATE OF MAHARASHTRA**

...

Advocate for Applicants : Mr. Durrani Imran G.

APP for Respondent : Mr. S.B.Narwade.

CORAM : MANGESH S. PATIL, J.

DATE : 24/11/2020

PER COURT :

This is an application under Section 438 of the Code of Criminal Procedure seeking bail in the event of arrest of the applicants in connection with Crime No. 219/2019, registered with Parali City Police Station, District Beed for the offences punishable under Sections 420, 468, 476, 471, read with Section 34 of the Indian Penal Code.

2. In sum and substance the allegations as can be gathered are to the effect that there was a person by name Bajranglal having properties in Rajasthan. With an ill intention to grab his properties without there being any relation with him, the applicants tried to obtain a death certificate at Parali (Vaijnath) and for that purpose tried to manipulate the Municipal birth and death record of one Papalal who died at Parali (Vaijnath) posing that Papalal is none else but Bajranglal. It is further alleged that the applicants managed to obtain the death certificate and even succeeded in mutating their names to the properties of Bajranglal in Rajasthan and even sold it under a registered sale-deed. It is also alleged that soon after the complainant/ informant raised an objection with the Chief Officer of the Municipal Council Parali(Vaijnath), by the order dated 21.09.2017 he cancelled the order modifying the names in the death certificate of Papalal. In spite of that the applicants were successful in getting their names mutated to the property of Bajranglal and disposed it of.

3. Learned advocate Mr. Durrani for the applicants vehemently submits that it is purely a civil dispute. A belated attempt is being made to give criminal drappings. Already the applicants have filed a Writ Petition in this Court challenging the order of the learned Chief Officer cancelling the modification of the death record.

4. The learned advocate for the applicants further points out that a cousin of the informant had filed a similar complaint with the Police of Pilva Police Station, District Nagaur in Rajasthan with the self-same allegations and after the investigation the concerned Investigating Officer has submitted a final report to the effect that the offence could not be made out. He would therefore submit that with the self-same allegations the Investigating Officer from Parali (Vajjnath) cannot carry out any investigation.

5. The learned advocate then submits that custodial interrogation of the applicants is not necessary. The Investigating Officer can easily conclude the investigation on the basis of the documents to be obtained from the Municipal Council. They are ready to cooperate the Investigating Officer and they may be granted anticipatory bail.

6. The learned A.P.P. strongly opposes the application. He submits that there is enough material collected by the Investigating Officer to show that Papalal and Bajranglal were two different entities, the former died at Parali (Vajjnath) in the year 1985 whereas the latter died in Rajasthan in the year 1965-66. Statements have been recorded including that of the mother of the applicant No. 2 to substantiate the fact that Papalal who died in Parali (Vajjnath) in the year 1985 was not known by any other name.

7. The learned A.P.P. then points out that in spite of being aware that the modification of the death record has been cancelled by the Chief Officer, another attempt was made by submitting an application bearing Criminal Application No. 96/2018 to the Judicial Magistrate First Class under the provision of Section 13 of the Birth and Death Registration Act specifically

alleging that death of Papalal @ Bajranglal was never recorded in the Municipal record. Again, the learned A.P.P. submits that taking advantage of filing of such subsequent application and in spite of cancellation of modification by the Chief Officer of the Municipal Council Parali (Vajjnath) the applicants sold the properties standing in the name of Bajranglal in Rajasthan. The learned A.P.P. then points out that the Investigating Officer has carried out the investigation to trace the genealogy and has found that the informant is related to Bajranglal whereas the applicants do not find place in the genealogy. He would then submit that attempt is being made time and again to grab the property of Bajranglal and the applicants have successfully disposed of the properties left behind by him. All these matters constitute a conscious attempt at cheating by resorting to forgery. Custodial interrogation of the applicants is necessary and the application be rejected.

8. I have carefully gone through the papers of investigation. The dispute indeed appears to be of civil nature however a careful perusal of the papers would clearly reveal that it is not a simpliciter dispute of that kind and involves deep rooted criminality.

9. There is enough material and the statements of the witnesses to prima faice show that death of one Papalal Kishanlal Saraswat was duly recorded in the Municipal record of Parali (Vajjnath) showing that he died on 25.01.1985. There is also record prima facie to show that Papalal was not known by any other name. Conspicuously, there is a statement of the mother of applicant No. 2 apart from few other witnesses from Paraji (Vajjnath) to this effect.

10. As against this there is absolutely no record to even prima facie show that Papalal was also known by name Bajranglal. It is important to note that the attempt by the applicants was not only to correct the name of Papalal but even his father whose death was recorded on 27.08.1963 and Papalal's wife Narmadabai whose death was recorded on 28.03.2007. It is

thus quite apparent that the applicants have been aware that mere correction in the death record of Papalal would not suffice and sought to correct the entries in respect of death of Papalal's father and wife as well.

11. There is still record from Rajasthan and particularly the order of the Sub Divisional Officer from Rajasthan cancelling the mutation effected at the instance of the applicants in the property record of Bajranglal.

12. Again, in spite of such an unsuccessful attempt to correct the Municipal record at Parali (Vajjnath), the applicants claiming that death of Papalal was never recorded filed another application (Criminal Application No. 96/2018) under Section 13(3) of the Registration of Births and Deaths Act, 1969 before the Judicial Magistrate First Class, Parali on the ground that the death was never recorded. If at all, according to applicants, death of Papalal was already recorded in the Municipal record which they had sought to correct, one cannot comprehend any reason why they could have been entitled to again apply to the Judicial Magistrate under the provisions of the Registration of Births and Deaths Act.

13. All these facts and circumstances *prima faice* show that the applicants are indeed involved in cheating and forgery. The matter is serious and the Investigating Officer deserves to be extended sufficient opportunity to carry out the investigation resorting to custodial interrogation of the applicants. In the facts and circumstances, the applicants are not entitled to anticipatory bail.

14. The Application is rejected.

(MANGESH S. PATIL, J.)

mkd