IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.71 OF 2021

NARENDRAKUMAR KANHAIYALAL JANGADE
INDIRABAI W/O NARENDRAKUMAR JANGDE
TARUN S/O NARENDRAKUMAR JANGADE
VERSUS
THE STATE OF MAHARASHTRA
...
Advocate for Applicants : Mr. Mote Rahul P.
APP for Respondent/State : Mr. S.W. Mundhe
...

CORAM : MANGESH S. PATIL, J.

DATE : 11.02.2021

PER COURT :

The applicants are seeking bail in the event of their arrest in connection with Crime No.571/2020 registered with Kadim Jalna Police Station, Jalna City for the offence punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code.

2. The FIR has been lodged by the nephew of the applicant No.1. The applicant No.2 is the wife of the applicant No.1 and Applicant No.3 is their son. It is alleged that the property bearing CTS No.10606 was belonging to Kanhaiyalal who is the father of the applicant No.1. Father of the informant Dilipkumar is real brother of the applicant No.1. He got the names of both his son applicant Narendrakumar and deceased Dilipkumar to be recorded against the property in the year 1975. The entry continued till the year 2017. Abruptly the name of Dilipkumar who died in the year 2016

was deleted and subsequently Narnedrakumar is stated to have, claiming himself to be the exclusive owner executed a gift deed in favour of the applicant Nos.2 and 3 of the entire property. It is now being alleged that the applicants have indulged in forgery. Without there being any order or certification by any revenue authority the name of Dilipkumar was omitted from the property record. It constitutes forgery and have used this forged document to further transfer the property.

3. The learned advocate for the applicant would submit that it is a civil dispute. In a family arrangement one of the properties was gifted to the informant by the grandfather Kanhaiyalal and the present property was exclusively allotted to the applicant No.1 Narendrakumar. It is pursuant thereto the mutation had taken place and he had further gifted it to the applicant Nos.2 and 3. Going by the allegations, it is only a matter of record to be examined. Custodial interrogation of the applicants is not necessary. They are ready to cooperate the Investigating Officer. The applicant Nos.2 and 3 have not played any role. They have been gifted property by the applicant No.1 and the Application may be allowed.

4. The learned APP opposes the Application. He submits that the investigation has revealed that the property card has been illegally tampered with. Name of Dilipkumar has been unauthorizedly bracketed by someone. Since the applicants are the beneficiaries of such manipulation there is active involvement of each of them. He would further submit that statement of Kanhaiyalal has also been recorded. He has flatly denied about there

being any family arrangement or he having caused the name of the Dilipkumar to be deleted/omitted.

5. I have carefully gone through the papers of the investigation. Apparently there is no order directing the mutation to be effected, whereby, name of Dilipkumar could have been deleted. Pretending to be the exclusive owner the applicant No.1 seems to have gifted the property to the other two applicants. It is now being tried to be made out that there was some family arrangement in which out of the two properties belonging to Kanhaiyalal one was gifted to the informant and the present one was to be exclusively allotted to the applicant Narendrakumar. However, there is no consequential record to be seen anywhere to give effect to such family arrangement. If really there would have been such family arrangement certainly there could have been some formal application for effecting mutation. However the Revenue Authorities flatly denied about there being any such mutation having ever been certified.

6. Considering all the aforementioned facts and circumstances it is clear that there is a *prima facie* substance in the allegations about manipulation of the revenue record. The applicant No.1 must have played active role being the highly interested person in such manipulation. Therefore to his extent the application is liable to be rejected. The applicant Nos.2 and 3 would be entitled to bail subject to suitable conditions.

7. The Application is party allowed. In the event of arrest of the applicant Nos.2 and 3 in connection with Crime No.571/2020 registered

with Kadim Jalna Police Station, Jalna City for the offence punishable under Sections 420, 467, 468, 471 read with Section 34 of the Indian Penal Code they be released on bail on their executing personal recognizance for an amount of Rs.20,000/- each and furnishing a solvent surety in the like amount each subject to following conditions:

a) They shall attend the concerned Police Station as and when called by the Investigating Officer till filing of the charge sheet and shall cooperate him.

b) They shall not tamper the evidence or influence the witnesses.

8. Application to the extent of Applicant No.1 is rejected.

(MANGESH S. PATIL, J.)

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