

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 25 OF 2020

1. Sharad Yadunandan Chawada
2. Naresh Yadunandan Chawada
3. Jagdish Yadunandan Chawada

...Applicants

Versus

1. The State of Maharashtra
2. The Deputy Superintendent of Police,
Aurangabad

...Respondents

...

WITH
CRIMINAL APPLICATION NO. 299 OF 2020

Jitendra Yadunandan Chawada

...Applicant

Versus

1. The State of Maharashtra
2. Sharad Yadunandan Chawada
3. Naresh Yadunandan Chawada
4. Jagdish Yadunandan Chawada

...Respondents

...

Advocate for the Applicants : Mr. R. S. Shinde and R. V. Kunte

APP for the Respondents – State : Mr. A. V. Deshmukh

Advocate for the informant to assist PP : Mr. Balraj P. Pande

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CORAM : PRAKASH D. NAIK, J.

DATE : 15th DECEMBER, 2021

PER COURT :-

1. The applicants are apprehending arrest in Crime No. 450/2019 registered with Pundlik Nagar Police Station, District Aurangabad for the offences punishable under Sections 420, 467, 468, 469, 471 read with Section 34 of the Indian Penal Code.

2. The case of the prosecution is that the complainant's father Yadunandan Chawda has expired on 08.06.2008. His mother Kanaklata has expired in 2010. There was ancestral property at mauje Satara Gat No. 141 and property self-acquired by complainant. 7 brothers and six sisters were legal heirs of father's property. Younger brother Mahesh Yadunandan Chawda had prepared false 'will' and 'consent deed' of father in respect to the property situated at gat No. 141 admeasuring 70 R. and submitted the said documents to the office of Tahsildar, Aurangabad and transferred 70 R. property in his name. The said documents were prepared on a computer on 28.09.2005 and 29.08.2008 and notarized it. By using tampered documents he increased the area. Naresh Chawada, Jagdish Chawada, prepared false document in respect to

property owned by complainant and transferred 1 acre property in their names. Property was also transferred in name of mother, while she was alive. 1 Acre land is remaining in the name of complainant.

3. The applicants preferred application for anticipatory bail before the Court of Sessions. The application was rejected by the Sessions Court.

4. Learned Advocate for the applicants submitted that the applicants are falsely implicated in this case. The complainant is lodged by the brother of the applicants. The dispute relates to ancestral property. The allegations are after thought. The transactions were of 2008. There is delay of 11 years in lodging FIR. The complainant has misled the police by contending that the disputed property is self-acquired property. The complainant himself has taken possession illegally and refrained his brothers and sisters from enjoying their legal right. The sister of the complainant Smt. Vimala Suresh Hosemane filed Special Civil Suit No. 243/2012 against the complainant for partition and separate possession. By order dated 10th September, 2014 the 5th Civil Judge Senior Division has restrained the complainant from creating third party

interest and alienating the disputed property. In the suit referred to above the complainant is defendant. The suit was filed in 2012. The informant has filed his say. There were no allegations of forgery of will, gift deed, partition deed. The complainant has alleged that the applicant No.1 has created false gift deed. The said document is registered. The civil litigation is pending. The documents are part of the Court proceedings or the Government record. Custodial interrogation of the applicants is not necessary.

5. Learned APP submitted that the accused are involved in forgery of documents. Custodial interrogation of the applicants is necessary. The accused had prepared fabricated partition deed and mutated their names. The accused had acted in connivance with each other and mutated the land in their names. The accused in collusion with each other mutated the land in their names on the basis of false and fabricated documents. The dispute is regarding the ancestral property.

6. Learned Advocate for the complainant opposed the relief in this application. It is submitted that the accused have fabricated the document. The offence is serious. Custodial interrogation of the accused is necessary. The forged

documents are in possession of the accused. The documents are required to be recovered. The accused have joined the hands. The accused had prepared false affidavit of mother with the help of forged documents, the accused mutated property. The complainant had filed suit before Jt. Civil Judge, Aurangabad against accused in 2020. In the said suit vide order dated 26.10.2021 it was declared that gift deed dated 29.07.2004 executed by Yadunandan Chawada in favour of Sharad Chawada is illegal. The will dated 28.09.2005 in favour of Mahesh Chawada is invalid. Gift deed dated 14.01.2008 executed in favour of Mahesh Chawada is invalid. The handwriting report supports prosecution case. The accused have tampered documents.

7. The dispute relates to the property. The original transactions are of the year 2008. Suit is filed by sister of complainant is pending.

8. Agricultural land gat No. 141 admeasuring 8 acres is situated at Satara, CTS No. 2979 and 2982. The parents of the complainant and accused died in the year 2008 and 2010. The Joint Civil Judge Senior Division, Aurangabad has passed order on 10.09.2014 restraining defendant Nos.9, 10 and 12 in the

said suit temporarily from alienation of the suit property until further orders. The complainant has filed suit which has been decreed by judgment and order dated 26.10.2021. The entire matter relates to documents. Custodial interrogation of the applicants is not necessary. Hence, the order :-

ORDER

(i) Anticipatory Bail Application No. 25 of 2020 is allowed.

(ii) In the event of arrest of the applicants in Crime No. 450/2019 registered with Pundliknagar Police Station, District Aurangabad, the applicants be released on bail on executing PR bond in the sum of Rs.25,000/- each, with one or two sureties in the like amount.

(iii) The applicants shall report the Investigating Officer on 27.12.2021, 28.12.2021 and 29.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.

(iv) ABA No. 25 of 2020 and Criminal Application No. 299 of 2020 stand disposed of.

**(PRAKASH D. NAIK)
JUDGE**

