

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

928 APPLICATION FOR CANCELLATION OF BAIL NO.117 OF 2021

UDHAV NAMDEO SHINDE
VERSUS
UDHAV GANPATRAO MAHANOR AND ANOTHER

...
Advocate for Applicant : Mr. Sachin S. Deshmukh
APP for Respondents: Mr. A.V. Deshmukh.

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CORAM : PRAKASH D. NAIK J.
DATE : 16th NOVEMBER, 2021.

PER COURT :-

1] The first informant has preferred this application under section 439 (2) of the Cr.P.C. challenging the impugned order dated 4th may 2021 passed by the learned Additional Sessions Judge, Beed in Criminal Application No. 277 of 2021 granting anticipatory bail to respondents Nos. 1 and 2.

2) The complainant is the secretary of the Akhil Marathwada Zilla Parishad Kamgar Union. The union had purchased land vide registered sale deed on 11th of July 1994. The Municipal Council, Beed had taken entry of it and recorded the name of the complainants union as owner of the property. It is alleged that accused was concerned with the complainant's union prior to 2008 and subsequently established another union in the name of Marathwada Zilla Parishad Sarvajanik Bandhkam and Patbandhare Kamgar Karmachari Sanghatana and the same was registered. Taking undue advantage of the earlier communication with the complainant's union, the accused in collusion with each other had prepared false and fabricated documents with the intention to grab the property of the complainant's union. The accused had prepared false and fabricated resolution to grab the property and submitted application to the City Survey Officer to transfer the property and sanction mutation entry in the name of the accused. The complainant filed a private complaint seeking investigation under section 156(3) of the Code of Criminal Procedure.

3] The learned counsel for the complainant submitted that the order passed by the learned Session Judge granting anticipatory bail is erroneous. The custodial interrogation of the applicant was necessary. The accused were involved in fabrication of false documents with an intention to grab the property belonging to complainant's union. Those documents are required to be recovered. It was necessary to have a confrontation with said documents. Without taking into consideration the need of custodial interrogation, the application for anticipatory bail of the respondents was allowed.

4] The learned APP supported the submissions of the learned counsel for complainant. It is submitted that the property was belonging to complainant's union and the accused with an intention of grabbing the property had indulged in preparing fabricated documents which are necessary to be recovered.

5] I have perused the impugned order dated 4th may 2021. The learned Judge has passed detailed order assigning reasons for allowing the application for anticipatory bail. I do not find any reason to take a different view from the one expressed by the learned Session Judge while allowing the application preferred by the accused. On perusal of the impugned order, it is apparent that the complainant had opposed the application and after considering the grounds of opposition the learned Judge, by assigning cogent reasons, has allowed the application. The learned Sessions Judge has dealt with the submissions of both sides while adjudicating the application for anticipatory bail. In para. 9 of the impugned order after analysing the factual aspects of the matter the learned Judge has observed that prima facie, it can be said that there is a dispute between two unions in respect of the ownership of said property. The accused No.1 was associated with the complainant's union. There are two separate unions registered by the respective workers. The property was purchased in 1994. However, entry of the said transaction was not noted in the City Survey Office, Beed. It is further observed that prima facie it can be said that after formation of new organization the applicant No.1 moved an application for recording his name in the record of rights of the said property. According to applicants, as the workers of the new organization had contributed for purchasing the property, there was resolution between them in the general body meeting. When the alleged resolution came to be passed the said new organization was not registered, which was subsequently

registered in the year 2009. It is further observed that after considering the documents on which the accused and complainant are relying upon, prima facie, it can be said that the dispute in respect of the said property is between the two unions and the applicants/accused have not gained any profit out of it. The dispute is of a civil nature and at this stage it cannot be said that since beginning the applicants were having intention to grab the property. The application was allowed and several conditions were imposed upon the accused.

6] In the light of the observations of the learned Judge and the documents which are before the Court, I do not find any reason to differ with the view taken by the learned Sessions Judge while allowing the application. In view of the above I pass the following order.

ORDER

Application for cancellation of bail No. 117 of 2021 stands rejected and disposed of.

[PRAKASH D. NAIK]
JUDGE

GRT/-