

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

917 ANTICIPATORY BAIL APPLICATION NO. 1150 OF 2020

MARUTI S/O. NARAYAN SHINDE
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Mrs. P.G. Sontakke.
APP for State : Mr. V.S. Badakh.

**CORAM : MANGESH S. PATIL, J.
DATED : 19.01.2021**

PER COURT :

The applicant is seeking bail in the event of his arrest in connection with Crime No. 379/2020, registered with Sonpeth Police Station District Parbhani, for the offences punishable under Sections 420, 467, 468, 471 read with Section 32 of the Indian Penal Code.

2. In substance, the allegations are to the effect that land Survey No. 121 of Village Bhambarwadi, Mahatpuri, was an Inam land which was regranted to the grandfather of the complainant in the year 1962. His grandfather Rakhmaji Abaji Waghmare deposited the occupancy price of Rs. 318.96 paise with the govenment on 29.09.1965. Accordingly mutation entry No. 59 was certified and the name of his grandfather was mutated. He alleges that when he verified the revenue record, it transpired that name of his grandfather Rakhmaji

Abaji Waghmare was rounded off and the name of the applicant was replaced. On further enquiry it transpired to him that the Tahsildar of the relevant time and tenancy clerk concerned who were in the office on 23.04.2007, conspiring with the applicant manipulated the record to show that the latter had deposited the occupancy price of Rs. 318.96 paise on 23.11.1963. He further alleges that in fact the applicant was born on 01.01.1967 and could not have deposited the occupancy price before his birth. He would, therefore, allege that the applicant and the revenue officials have indulged in the act of forgery and have used forged document and also indulged in cheating.

3. The learned Advocate for the applicant would submit that the applicant is innocent. He is in possession of the entire land Survey No. 121. A civil dispute is going on between him and the successors of Rakhmaji. The heirs of Rakhmaji had relinquished their right before the Tahsildar by executing a writing on 01.03.2006. Accordingly, revenue entries were mutated. The offence of cheating cannot be made out. The FIR has been lodged with a view to harass the applicant and as a counter blast to the FIR lodged by the brother of the applicant against the informant in Crime No. 362/2020. There is enormous delay in lodging the FIR. The applicant is ready to cooperate the Investigating Officer in all respects. His custodial

interrogation is not necessary and he may be granted anticipatory bail.

4. The learned APP strongly opposes the application. He submits that prima facie there is enough material to demonstrate that the revenue authorities in collusion with the applicant have indulged in the act of forgery which is conspicuous from the original revenue record. It would be unthinkable that the applicant could have deposited the occupancy price even before he was born. Such report is submitted by the Tahsildar to the Deputy Collector on 23.04.2007. It clearly corroborates the allegations in the FIR. The offence is still under investigation. Custodial interrogation of the applicant is must. The application be rejected.

5. I have carefully gone through the papers of the investigation. True it is that there is delay in lodging the FIR. However, as can be appreciated, it is only pursuant to the report submitted by the concerned Tahsildar to the Deputy Collector dated 23.04.2006 that the informant seems to have got to know that there was something fishy. Therefore, not much weight can be attached to this aspect at this juncture.

6. The photocopy of the relevant extract of the original register would prima facie indicate that originally the name of grandfather of the informant, namely, Rakhmaji Abaji Waghmare was recorded against the land Survey No. 121 which has subsequently been rounded off and the name of the applicant is written therein. It is also apparent that in the report submitted by the Tahsildar to the Deputy Collector it has been mentioned that the occupancy price is paid by the applicant on 23.11.1963, i.e. even prior to his birth which is clearly startling.

7. It is under these circumstances, considering the nature of the crime and the *modus operandi* the offence could not have been accomplished except by indulging in some conspiracy. Therefore, custodial interrogation of the applicant is highly essential.

8. The question whether the heirs of Rakhmaji Abaji Waghmare have really relinquished their right in the property which may not be commented upon at this juncture. The fact remains that prima facie there is enough material to corroborate the allegations in the FIR.

9. The application is rejected.

(MANGESH S. PATIL, J.)