

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.138 OF 2021
WITH
INTERIM APPLICATION NO.407 OF 2021**

Abrar Sarvar Bhatia and Ors.

.. Applicants

Versus

State of Maharashtra

.. Respondent

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Mr.Abhishek Yende i/b. Mr.Paavani Chadha and Mr.Kamran S.,
Advocate for the Applicants.

Mr.Y.M. Nakhwa, APP for the Respondent – State.

Mr.D.D. Singh, Advocate for the Intervenor.

PI Mahadeo Nimbalkar, Khar Police Station, Mumbai, present.

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CORAM : PRAKASH D. NAIK, J.

DATED : FEBRUARY 05, 2021.

P.C. :

This is an application for anticipatory bail in connection with C.R.No.296 of 2019, registered with Khar Police Station, Mumbai, for the offences punishable under Sections 420, 465, 467, 468, 471 read with 34 of Indian Penal Code.

2 The case of the complainant is that the applicants are his brothers. Their father late Sarvar Khan Bhati owned 7 rooms

on plot survey no.62-A, No.CTS F-242, 89A Khar. In 2009, the applicants and complainant met at Jama Masjid. The committee members made attempts to distribute the property. They were unable to do so. The applicants and complainant had multiple meetings to decide on distribution of property. On 13th May, 2016, the applicant made application to City Survey Office for inclusion of his name and his family. Notice was issued to applicants. The applicants objected for inclusion of names stating that there was family settlement that had taken place and for the same family settlement deed is in existence and as per that complainant has been given share in the property. Hence, his name should not be included in property card. In the written objection, copy of settlement deed was not attached. The complainant denied that he has signed any such deed. The application was rejected. Complainant filed Appeal. Appeal was allowed. Applicants filed review application in which they annexed settlement deed. It is alleged that signature of complainant is forged. On last page of settlement deed names of complainants mother, brother Jabbar, Abrar, Asrar, Riyaz sister Kausar, Akhtar, and their photographs were shown. Signatures were appearing below photographs. Photographs of elder brother and his signature is not appearing. Complainants signature is forged. Signatures of witnesses is not

appearing. Photograph of complainant is not pasted settlement deed contains stamp of advocate. Complainant inquired with advocate. He admitted that his stamp is reflected but the deed is not executed in his office. Thus, forged deed was prepared by accused.

3 Learned counsel for the applicants submits that there were disputes between their father Sarvar and complainant in relation to properties. Cross complaints were filed against each other. In one of the complaint filed by Sarvar, investigation under Section 156(3) of Cr.P.C. was directed for offences under Section 454, 457, 420, 467, 408 and 471 read with 34 of IPC. The FIR is lodged against applicants out of vengeance. The father during his lifetime has made declaration serving relation with complainant, applicant no.1 and elder brother Abdul Sattar. To rectify relations, it was decided to approach Masjid at the instance of complainant. Settlement deed was agreed upon with equal of two shares to each son and widow of Sarvar and one share to married daughters of Sarvar. It was signed by all except Abdul Sattar. In midst of signing settlement deed complainant's wife took him away and hence his photo was not affixed. The applicants rely upon the statement of Masjid. Sessions Court, while rejecting

application for anticipatory bail recorded that Notary advocate whose stamp is on the settlement deed, has said that deed was not prepared in his office, neither does it bear his signature. The Court failed to appreciate that the Notary that has been done by advocate was for purpose of true copy for filing Review Application before Deputy Director of Land Records. The exhibits in the Review application have same stamp of said advocate. No notary was done for the purpose of registration of settlement deed. The entire dispute relates to the rights in respect to property. The complainant has not been deprived of his rights. Even in the settlement deed his rights were protected. There is no forgery on the settlement deed.

4 Learned APP submitted that the applicants are involved in forgery. Signature of the complainant is forged. The existence of notary stamp on the settlement deed also indicate forgery. Thorough investigation is required to be conducted. Learned counsel for the intervenor supports the submission of learned APP. He submitted that the documents are fabricated, complainant's signature is forged. His photograph is not appearing on the settlement deed. It is difficult to believe that the complainant would sign without photograph. The signature and

photograph of Abdul Sattar is missing. The documents are required to be recovered from the applicants.

5 It is not disputed that the applicants and the complainant are related to each other. Complainant is brother of the applicants. The dispute appears to be over the property. According to applicants, the settlement deed was executed between the parties. The complainant denies his signature. The relations between applicants and complainant are not cordial. complainant's wife had filed FIR against applicant No.2 for offence under Section 325 of IPC. He was tried and acquitted. The applicants contended that their father had severed his relation with complainant. It is also contended that, family settlement took place with guidance of Masjid. Complainant, Abdul Sattar had disputes with their father. Complaints were filed against each other. The settlement deed do not bear signature or photograph of Abdul Sattar. The accused did not forge his signature. The applicants rely on statement/report of committee/ Masjid. The annexures to Review application appears to have been notarized and not original settlement deed. Learned advocate proceeded copy of Review application. On perusal it can be seen that even application had been notarized by advocate. All

the annexures including Deed of Settlement were notarized by same advocate. Notarization is apparently for filing such application. The matter relates to documents. The issue relate to the rights in the property. The proceedings were initiated before the authorities. Custodial interrogation of the applicants is not necessary.

6 Hence, I pass the following order:

:: ORDER ::

- (i) Anticipatory Bail Application No.138 of 2021, is allowed;
- (ii) In the event of arrest of the applicants in connection with C.R.No.296 of 2019, registered with Khar Police Station, Mumbai, the applicants be released on bail on their executing P.R. Bond in the sum of Rs.25,000/-, each, with one or more sureties in the like amount;
- (iii) Applicants shall appear before the investigating officer on 10th, 11th, 12th February, 2021, between 11:00 a.m. to 01:00 p.m., and thereafter as and when called for, till filing of charge-sheet;

- (iv) Applicants shall co-operate with the investigation;
- (v) Applicants shall not tamper with the investigation;
- (vi) Anticipatory Bail Application No.138 of 2021, stands disposed of accordingly;
- (vii) Intervention Application No.407 of 2021, stands disposed of.

(PRAKASH D. NAIK, J.)