

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

**ANTICIPATORY BAIL APPLICATION NO. 802 OF 2021
WITH
INTERIM APPLICATION NO. 1075 OF 2021**

Mohandas Padmanabha Shetty ...Applicant
Versus
The State of Maharashtra ...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 803 OF 2021
WITH
INTERIM APPLICATION NO. 1074 OF 2021**

Madhuri Kapil Koli & Ors. ...Applicants
Versus
The State of Maharashtra ...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 825 OF 2021
WITH
INTERIM APPLICATION NO. 1181 OF 2021**

Siddharth Ashok Desai ...Applicant
Versus
The State of Maharashtra ...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1026 OF 2021
WITH
INTERIM APPLICATION NO. 1558 OF 2021**

Mohammed Shamsher Shakil ...Applicant
Versus
The State of Maharashtra ...Respondent

**ALONGWITH
ANTICIPATORY BAIL APPLICATION NO. 1108 OF 2021
WITH
INTERIM APPLICATION NO. 1557 OF 2021**

Santosh Kumar Haribansh Singh ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Satish Borulkar a/w Mr. Manoj A. Patil i/by Ms. Rekha Khandare Advocate for Applicant in ABA/802/2021.

Mr. Nilabh Toshnival, Advocate for Applicant in ABA/803/2021.

Mr. Viral Rathod i/by Mr. Sudip Mallick, Advocate for Applicant in ABA/825/2021.

Mr. Asif Naqvi a/w Mr. Shehzad Navgi i/by Ms. Sana Subedar, Advocate for Applicant in ABA/1026/2021.

Mr. Shyamrishi Pathak, Advocate for Applicant in ABA/1108/2021.

Mr. Karan Mehta, Advocate for Applicant in All Interim Applications.

Mr. Deepak Thakare a/w Mr. S. S. Pednekar, APP for Respondent-State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 21st JUNE, 2021

PC :

1. The Applicants are apprehending arrest in connection with C.R. No.152 of 2021 registered with Dharavi Police Station, Mumbai for offences punishable under Sections 465, 468, 471, 406, 404, 420, 120(B) read with 34 of the Indian Penal Code, 1860.

2. The First Information Report was registered by Smt. Mohini Ganesh Kharat on 13th March, 2021. It was alleged that the complainant and her elder sister Madhuri were residing at room No. 184 -B, Laxmi Niwas, Dharavi, Koliwada, Mumbai-17, prior to her marriage, with parents Dinanath Kisan Koli and Damayanti Dinanath Koli. Complainant's sister Madhuri was married to Kapil Devchand

Koli. She was residing at Worli Koliwada, Worli Mumbai-30. The complainant got married on 2nd June, 2012 with Ganesh Uttam Kharat and she was residing at Khambdeo Nagar, Dharavi, Mumbai-17. The father of complainant was conducting country-liquor shop. Her mother died on 7th June, 2020. The complainant and her elder sister Madhuri are legal heirs of Damayanti Dinanath Koli. Mr. Mohandas Shetty and Advocate Siddharth Desai brought Will prepared by complainant's mother dated 17th January, 2020. As per the said Will, the property was given to Madhuri Koli. As per Will dated 17th January, 2020 several properties were given to Madhuri Kapil Koli as well as complainant. The complainant realised that, Will was bogus and it was prepared to usurp the property. The complainant's mother was ill-treated. The property mentioned in the Will were purchased by complainant's father in July 2014. The complainant's mother was taking help of complainant for bank transaction. The stamp paper used for preparing Will was bogus. It was purchased from Thane treasury. Although, the complainant's mother had residing at Dharavi. Several other factors indicates that, the Will was fabricated. The complainant's elder sister has misappropriated gold ornaments. The First Information Report was registered against Madhuri Koli, Kapil Koli, Kaushik Koli, Mohandas Shetty, Advocate Siddharth Desai and Doctor's of hospital etc.

3. The complainant has filed Intervention Applications in applications for anticipatory bail.

4. While the applications were heard on 3rd May 2021, it was pointed out by learned Advocate appearing for the Applicant in Anticipatory Bail Application No. 803 of 2021 that, the parties have settled the matter and time was sought to file consent terms.

5. Thereafter, the parties have filed consent terms. Learned Advocate for the complainant submitted that, the consent terms are executed between Madhuri Kapil Koli, Kapil Devchand Koli, Kaushik Shantaram Koli and Ms. Mohini Ganesh Kharat (complainant). The consent terms are taken on record. In the consent terms it is stated that, Madhuri Koli and complainant are real sisters. Kapil Koli is the husband of Madhuri Koli. Kaushik Koli is the relative of Madhuri Koli and Smt. Mohini Kharat. It was further stated that, dispute between Madhuri Koli and Smt. Mohini Kharat is with regarding to the Will dated 17th January, 2020 of late Smt. Damyanti Dinanath Koli. The complainant has filed Caveat (ST) No.592 of 2020 on 22nd October, 2020. Mr. Digamber Chandrakant Koli in his capacity of executor has filed Petition No. 315 of 2020 for Probate of Will dated 17th January, 2020 in Testamentary & Intestate Jurisdiction of this Court. The complainant has filed her objection. Smt. Madhuri Koli and Mohini Kharat are the only legal heirs of Smt. Damayanti

Dinanath Koli and they are entitled for immovable, movable properties and gold ornaments. The consent terms referred to details of immovable properties, movable properties, gold and gold ornaments. It is further mentioned that, considering the relationship parties have amicably settled the dispute. The complainant had accepted the offer of accused No.1 Smt. Madhuri Koli and agreed to settle the dispute. The accused No.1 had undertaken to scrupulously follow the terms and conditions of consent terms. The consent terms referred to the details of distribution of properties to Smt. Madhuri Koli and Smt. Mohini Kharat. Reference is made to distribution of fixed deposit amount and the amount lying in saving bank account. The reference is also made to distribution of rent amount, recovery of money etc. The consent terms were signed by Madhuri Koli and Smt. Mohini Kharat. Their advocate have also signed the consent terms. It is submitted that, in view of consent terms, the Applicants may be granted Anticipatory Bail.

6. Learned APP opposed the prayer for bail. It is submitted that, several other persons are involved in the crime. The dispute is not only between complainant and her sister. Accused were involved in fabrication of documents. Their custodial interrogation is necessary.

7. From the FIR it appears that, the dispute is arising out of Will, which according to complainant was false and fabricated. The sister of complainant is the prime accused in this case. Matter relates to documents. Considering the consent terms executed by parties, the Applicants need not be subjected to custodial interrogation.

ORDER

- (i) Anticipatory Bail Application Nos. 802 of 2021, 803 of 2021, 825 of 2021, 1026 of 2021 and 1108 of 2021 are allowed.
- (ii) In the event of arrest of the applicants in all the applications, in connection with C.R. No.152 of 2021 registered with Dharavi Police Station, Mumbai, the applicants be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, each, with one or more sureties in the like amount;
- (ii) Applicants shall appear before the investigating Officer on 5th, 6th and 7th July, 2021 between 11:00 a.m. to 1:00 p.m., and, thereafter, as and when called for;
- (iii) Anticipatory Bail Application Nos. 802 of 2021, 803 of 2021, 825 of 2021, 1026 of 2021 and 1108 of 2021, stand disposed of.
- (v) All Interim Applications are disposed of accordingly.

(PRAKASH D. NAIK, J.)