

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

ANTICIPATORY BAIL APPLICATION NO.1464 OF 2021

1. Chaya Madhukar Kanade, &
2. Madhukar Dagadu Kanade. Applicants
Versus
The State of Maharashtra Respondent

Mr. Sharad T. Bhosale, Advocate for the Applicants.
Mr. Ajay Patil, APP for the Respondent-State.

CORAM : SARANG V. KOTWAL, J.
DATE : 25th JUNE, 2021
[Through Video Conferencing]

P.C. :

1. At the outset, learned, learned counsel for the applicants states that he is not pressing application for applicant No.2 and he is unconditionally withdrawing this application to his extent. Considering this submission, the application for applicant No.2 is dismissed as unconditionally withdrawn.

2. I have, therefore, considered this application only for grant or refusal of relief to applicant No.1. Applicant No.1 is seeking anticipatory bail in connection with C.R.No.

157/2021 registered at Vairag Police Station, District Solapur under Sections 464, 465, 466, 468, 470, 471, 408, 409, 420, 166, 167 read with 34 of the Indian Penal Code.

3. Heard Shri Sharad Bhosale, learned counsel for the Applicants and Shri Ajay Patil, learned APP for the State.

4. The FIR is lodged on 7.4.2021 by the power of attorney holder of one Rushabai Todkari. The subject matter of the FIR is a land bearing Gat No.185 at village Manegaon, Taluka Barshi, District Solapur measuring 50 Ares. The applicants No.1 & 2 are husband and wife. The first informant on whose behalf the FIR was lodged i.e. Rushabai is applicant No.2's sister. The land in question was originally owned by father of applicant No.2. One Sudam and applicant No.2 were real brothers. Sudam had expired. He had a son named Nana Kanade. Therefore, ideally this land should have been shared by applicant No.2 and Nana. The FIR mentions that Nana was not found for many years and the applicant had used a forged death certificate in respect of Nana's death. They had used this certificate to introduce name of the applicants in 7/12

extracts of the same land. It is alleged in the FIR that Nana was not found for many years. For that the applicants should have approached the Civil Court and should have obtained declaration about his non-existence. However, instead of that a forged document about his death which is not even established was used for entering names. These are the allegations in the FIR.

5. Learned counsel for the applicants submits that applicant No.1 had no direct concern with the land. It was only through her husband applicant No.2 that she was concerned with the land. However, her name was introduced in the revenue record because of the compromise decree in between applicants No.1 & 2. He further submits that even as per the allegations no role is particularly ascribed to the present applicant No.1.

6. Learned APP has left this matter to be decided to the discretion of the Court.

7. I have considered these submissions. As mentioned earlier, learned counsel for the applicants has not

pressed this application for applicant No.2. The land in question ideally should have been in the name of applicant No.2 and his nephew Nana. However, through deceit and by using a fake death certificate, Nana's name was removed from the revenue record. Thus, at this stage, the question is as to what role applicant No.1 has played. The FIR does not throw light on this aspect. She is a lady. She was concerned with the land only through applicant No.2.

8. In this view of the matter, the investigation can go on without the applicant No.1's custody. Applicant No.2's application is rejected and as a corollary, he can be subjected to custodial interrogation. That should help the investigation of this offence. If applicant No.2 surrenders or is arrested and files application for bail, it shall be decided expeditiously without being influenced by withdrawal of this application on his behalf.

9. Therefore, I am inclined to grant protection of anticipatory bail to applicant No.1. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R.No. 157/2021 registered with Vairag Police Station, District Solapur, applicant No.1 is directed to be released on bail on her furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Applicant No.1 shall attend the concerned police station as and when called and shall cooperate with the investigation.
- (iii) Application for applicant No.2 is dismissed as withdrawn unconditionally.
- (iv) Anticipatory Bail Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)